

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3
4

5 ESTATE OF ERIC RIVERA, by and)
through successors in interest,)
6 PHILLIP MALIK and VALERIE)
RIVERA; PHILLIP MALIK,)
7 individually; VALERIE RIVERA,)
individually,)
8)
Plaintiffs,)

9 vs.)

) Case No. 2:17-CV
) 06939-CBM
)

11 CITY OF LOS ANGELES; LOS)
ANGELES POLICE DEPARTMENT;)
12 ARTURO URRUTIA; DANIEL RAMIREZ,)
and DOES 1 to 10,)
13)
Defendants.)
14)

15
16 CONFIDENTIAL PORTIONS OF THE
17 VIDEOTAPED DEPOSITION OF DANIEL RAMIREZ

18 Long Beach, California

19 Thursday, December 27, 2018
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24 Reported by: Gina Anne George
CSR No. 11260
25 LitiCourt Job No.: 201467

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and)
through successors in interest,)
PHILLIP MALIK and VALERIE)
RIVERA; PHILLIP MALIK,)
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CITY OF LOS ANGELES; LOS)
ANGELES POLICE DEPARTMENT;)
ARTURO URRUTIA; DANIEL RAMIREZ,)
and DOES 1 to 10,)

Defendants.)
_____)

CONFIDENTIAL PORTIONS OF THE VIDEOTAPED
DEPOSITION OF DANIEL RAMIREZ, taken on behalf of
the plaintiffs at 3777 Long Beach Boulevard,
Third Floor, Long Beach, California, beginning
at 2:43 p.m., and ending at 5:57 p.m. on
Thursday, December 27, 2018 before Gina Anne
George, Certified Shorthand Reporter No. 11260.

1 APPEARANCES:

2

3 FOR THE PLAINTIFFS:

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14

15 ALSO PRESENT:

16 CRAIG SCHUMACHER, The Videographer
17 PHILIP MALIK
18 VALERIE RIVERA
19 ANDRES MARTINEZ
20 ARTURO URRUTIA
21 BRADLEY HEARN
22 MARC STERNIN
23 JAMES TALMAGE
24 BRIAN HUN
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EXHIBITS

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Exhibit 13	Transcription of Recorded Interview of Officer Daniel Ramirez (Confidential)	36
Exhibit 14	Thumb drive of video (Confidential)	52
Exhibit 15	Color copy of photograph (Confidential)	60
Exhibit 16	Color copy of photograph (Confidential)	63
Exhibit 17	Color copy of photograph (Confidential)	120

The information contained on pages 1 to 43, 58 to 61
and 116 to 120 has not been designated as confidential
and those pages are bound separately.

Exhibit 12 was marked in the non-designated portion of
the transcript and is bound with the non-designated
portion of the transcript.

QUESTIONS NOT ANSWERED

PAGE	LINE
67	11
82	3

1 LONG BEACH CALIFORNIA;

2 THURSDAY, DECEMBER 27, 2018, 2:43 P.M.

3

4 * * *

5

6 DANIEL RAMIREZ,

7 having been first duly placed under oath by the

8 reporter, was examined and testified as follows:

9

10 EXAMINATION

11 BY MR. CASILLAS:

12 Q In light of -- I'll repeat my question. 03:35:52

13 After having read it -- and by the way, when was it 03:35:54

14 that you first read it? 03:35:56

15 A I first read it with my attorney, under my 03:35:59

16 attorney. 03:36:01

17 Q When was that? 03:36:03

18 A Approximately two weeks ago. 03:36:05

19 Q And were you given a copy of it? 03:36:07

20 A Yes, sir. 03:36:09

21 Q And other than reading it that first time, 03:36:09

22 did you read it again to -- again, just refresh your 03:36:13

23 recollection about what had happened? 03:36:17

24 A It was reviewed again. 03:36:19

25 Q Okay. And so you read it at least twice 03:36:20

1 before coming here today. 03:36:24

2 Did you read it a third time? 03:36:25

3 A Yes, sir. 03:36:27

4 Q Okay. And did you read it just to make sure 03:36:27

5 that everything that was in there that was recorded 03:36:31

6 in that transcript was accurate? 03:36:35

7 A Yes, sir. 03:36:38

8 Q And as you sit here today, is it, in fact, 03:36:39

9 accurate? 03:36:42

10 A From my perception of that night, yes. 03:36:44

11 Q Okay. Did you make a statement of anything 03:36:47

12 that you saw that night that as you sit here today 03:36:50

13 you want to change? 03:36:54

14 MR. BRENT: Okay. Are you asking him is 03:36:57

15 there something that he now knows to be different 03:36:59

16 than what he told FID? Is that what you're asking 03:37:01

17 him? 03:37:03

18 MR. CASILLAS: No. 03:37:04

19 MR. BRENT: Then I don't know. 03:37:04

20 If you know what he's asking you. 03:37:05

21 THE WITNESS: As far as changing it, I can't 03:37:08

22 say I would change anything right now -- 03:37:11

23 BY MR. CASILLAS: 03:37:13

24 Q Okay. 03:37:13

25 A -- due the time it's been since the 03:37:13

1 incident. 03:37:17

2 Q Did you also -- did you also review the -- 03:37:17

3 we're still on confidential. Okay. Did you also 03:37:36

4 review the body cam footage that was recorded by the 03:37:59

5 video equipment you were wearing the night that you 03:38:05

6 shot Eric Rivera? 03:38:08

7 A For the body-worn video? 03:38:09

8 Q Yes. 03:38:11

9 A Yes. 03:38:12

10 Q Other than -- and when was the last time 03:38:12

11 that you reviewed it? 03:38:21

12 A Approximately one week ago. 03:38:26

13 Q And I'm going to identify a copy of what I 03:38:29

14 believe to be the footage from your body-worn camera. 03:38:34

15 I want to identify it and make sure that it is one 03:38:37

16 that what you reviewed and, two, that it accurately 03:38:41

17 represents what you remember happening. 03:38:45

18 And let me ask you first then, after 03:38:49

19 reviewing the footage from your body-worn camera, did 03:38:51

20 you conclude that it accurately depicted what had 03:38:56

21 happened that night? 03:39:00

22 MR. BRENT: I'll just object as vague and 03:39:03

23 ambiguous. 03:39:05

24 THE WITNESS: Can you be more specific? 03:39:05

25 BY MR. CASILLAS: 03:39:06

1 Q Yeah. You looked at it and did you say, 03:39:06
2 yeah, that's -- that's what happened that night? 03:39:10
3 A Unfortunately due to the positioning of 03:39:13
4 where my hands were in conjunction with the body 03:39:16
5 worn, you couldn't see all the movements that I 03:39:18
6 perceived from the body worn. 03:39:22
7 Q And you're using that magic word. 03:39:25
8 Do you remember seeing Mr. Rivera move? 03:39:29
9 A Yes. 03:39:32
10 Q And did any of the movement that you 03:39:34
11 remember seeing, were any of those captured in the 03:39:38
12 body cam video that you saw or at least that you 03:39:41
13 yourself could discern? 03:39:44
14 A Unfortunately not. 03:39:46
15 Q The video from your body-worn camera also 03:39:48
16 contained audio. 03:40:00
17 Would you agree? 03:40:02
18 A Yes, sir. 03:40:03
19 Q Did you listen to the audio? 03:40:04
20 A Yes, sir. 03:40:06
21 Q Did you make out your own voice in the 03:40:06
22 audio? 03:40:10
23 A Yes, sir. 03:40:10
24 Q I'm going to play just a brief portion of it 03:40:14
25 with you. 03:40:19

1 And you were the driver of the patrol car. 03:40:20

2 A Yes, sir. 03:40:24

3 MR. BRENT: Are you making that as an 03:40:28

4 exhibit? 03:40:30

5 MR. CASILLAS: Yes. 03:40:30

6 MR. BRENT: That will be under seal as 03:40:31

7 well. That will be 14. 03:40:35

8 MR. CASILLAS: Yes. 03:40:37

9 (Plaintiffs' Exhibit 14 was marked.) 03:40:37

10 (Whereupon the video was played.) 03:40:55

11 BY MR. CASILLAS: 03:41:23

12 Q Based on that portion that you just 03:41:27

13 reviewed, does this appear to be the footage from the 03:41:28

14 body-worn camera that you were wearing that night? 03:41:36

15 A Yes. 03:41:38

16 Q Again, we'll attach a copy of that as 03:41:39

17 Exhibit No. 14. 03:41:44

18 At some time before you gave the statement 03:42:13

19 to FID, did you participate in a walkthrough of the 03:42:15

20 shooting at the location of the shooting? 03:42:32

21 A Prior to my FID interview, yes, I did. 03:42:34

22 Q And was Mr. Urrutia with you? 03:42:38

23 A No. 03:42:41

24 Q And do you know where he was? 03:42:41

25 A He was at the hospital. 03:42:44

1 Q Did you believe he had been shot? 03:42:45

2 MR. BRENT: Objection; vague as to time. 03:42:48

3 BY MR. CASILLAS: 03:42:50

4 Q At the time he participated in the 03:42:51

5 walkthrough, did you believe Mr. Urrutia had been 03:42:54

6 shot? 03:42:56

7 A From that night? 03:42:56

8 Q Yes. 03:42:57

9 A Yes. 03:42:58

10 Q Okay. And what was it about the 03:42:58

11 circumstances that led you to believe that he had 03:43:01

12 been shot? 03:43:04

13 A Due to the totality of the circumstances, we 03:43:04

14 received a radio call, man with a gun, and then we 03:43:10

15 encounter Mr. Rivera and he had a firearm in his hand 03:43:14

16 and he raised it towards me and my partner's 03:43:18

17 direction, at which point deadly force was used 03:43:21

18 because it was eminent threat, and I heard my round 03:43:25

19 coming from my partner's side, so I couldn't 03:43:29

20 disseminate where those sounds were coming from; so 03:43:33

21 hearing my partner in agony, it seemed that he may 03:43:37

22 have been shot. 03:43:44

23 Q Could he have shot himself? 03:43:45

24 A I couldn't tell you. I didn't see it. 03:43:48

25 Q Did you ever see any muzzle flashes -- and 03:43:50

1 by the way, from the time that you got out of your 03:43:54
2 patrol car until you fired your last round at 03:43:57
3 Mr. Rivera, did you take your eyes off of Mr. Rivera? 03:44:01
4 A From when I took my first shot? I'm sorry. 03:44:06
5 Could you repeat it, Mr. Casillas? 03:44:08
6 Q From the time you get out your patrol car 03:44:11
7 and until the time you shot your last round at 03:44:14
8 Mr. Rivera, did you take your eyes off of him? 03:44:17
9 A Yes, momentarily as I'm exiting the vehicle. 03:44:20
10 Q All right. And at what point did you regain 03:44:24
11 a visual on Mr. Rivera after you exited the vehicle 03:44:30
12 when you took your eyes off of him? 03:44:34
13 A As I'm exiting the vehicle, I realize that I 03:44:36
14 may be stepping into traffic. As a result, I don't 03:44:39
15 want to get hit. I just take my eyes off Mr. Rivera 03:44:43
16 momentarily for approximately half a second, and I 03:44:47
17 clear my left, make sure there's nothing to my 03:44:51
18 left -- 03:44:54
19 Q Okay. 03:44:55
20 A -- and then I look towards Mr. Rivera's 03:44:55
21 direction. 03:44:58
22 Q And in that time from the time you took your 03:44:58
23 eye off Mr. Rivera until you got a visual back on him 03:45:01
24 after clearing your left, did you hear any gunshots? 03:45:05
25 A No, sir. 03:45:08

1 Q From the time you got Mr. Rivera back in 03:45:08
2 your field of view until the time you fired your last 03:45:14
3 gunshot, did you take your eye off of Mr. Rivera 03:45:19
4 again? 03:45:23
5 A No, sir. 03:45:24
6 Q During that time, again, from the time you 03:45:25
7 regained the visual on Mr. Rivera after clearing your 03:45:28
8 left until the time you shot your last round, did you 03:45:32
9 see any muzzle flashes coming from Mr. Rivera? 03:45:36
10 A I don't remember. 03:45:42
11 Q And do you know what a muzzle flash is? 03:45:43
12 A Yes, sir. 03:45:46
13 Q What is that? 03:45:46
14 A Due to the small explosion inside the barrel 03:45:47
15 ejecting the casing, as a result of the explosion, 03:45:52
16 there is a small fire that comes out of the front of 03:45:56
17 the barrel. 03:45:59
18 Q And have you seen muzzle flashes in the dark 03:45:59
19 either in training or out when you're on duty? 03:46:04
20 A In training. 03:46:10
21 Q Okay. So you're familiar with what a muzzle 03:46:11
22 flash looks like. Yes? 03:46:13
23 A Yes, sir. 03:46:15
24 Q And you're confident in your ability to 03:46:16
25 identify a muzzle flash. Yes? 03:46:20

1 A That's a tough question. Sometimes there 03:46:24
2 isn't one. Sometimes there is no a muzzle flash and 03:46:27
3 there is a discharge of a firearm. 03:46:30
4 Q Right. At least when you see a muzzle 03:46:32
5 flash, you could identify it. 03:46:34
6 Is that fair? 03:46:35
7 A Yes, sir. 03:46:36
8 Q And did you see any muzzle flash coming from 03:46:36
9 the direction of or the -- from Mr. Rivera and his 03:46:41
10 person? 03:46:46
11 A Mr. Casillas, I couldn't tell you at this 03:46:46
12 moment. I don't remember. 03:46:49
13 Q Okay. Do you remember telling the FID 03:46:49
14 investigators that you did not see a muzzle flash? 03:46:56
15 MR. BRENT: So just -- because I'm not 03:47:00
16 clear, we're still under seal. Yes? 03:47:02
17 MR. CASILLAS: (No audible response.) 03:47:04
18 MR. BRENT: Go ahead. 03:47:06
19 THE WITNESS: After reviewing my FID 03:47:07
20 document, I don't believe that was ever posed as a 03:47:09
21 question or I never said in the interview. 03:47:12
22 MR. CASILLAS: All right. Anyway, we'll go 03:47:14
23 off of the confidential record, Counsel. 03:47:16
24 MR. BRENT: If you're not asking 03:47:19
25 confidential things, I agree. 03:47:20

1	(Whereupon counsel agree to go off the	03:47:20
2	confidential portion of the transcript.)	03:47:20
3	/ / /	03:47:20
4	/ / /	03:47:20
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1 BY MR. CASILLAS:

2 Q What does that photograph depict? 03:51:42

3 A It looks like it depicts the instance -- in 03:51:43
4 instance -- I'm sorry -- the facts what happened that 03:51:49
5 night of the shooting. 03:51:50

6 Q Does it as best you can tell depict where 03:51:52
7 Mr. Rivera was standing at the time you shot him? 03:51:55

8 A It does seem that way. 03:52:01

9 Q Okay. There's an individual that is 03:52:02
10 standing there. 03:52:05

11 Do you see that individual? 03:52:06

12 A On the sidewalk? 03:52:08

13 Q Yeah. 03:52:09

14 A Yes, sir. 03:52:11

15 Q And he is standing on the -- and when I use 03:52:12
16 the term driveway apron, do you understand what a 03:52:17
17 driveway apron is? 03:52:20

18 A Yes. 03:52:22

19 Q What is a driveway apron? 03:52:22

20 A It is a point of the curb that is broken 03:52:24
21 where it allows a vehicle to enter a driveway without 03:52:26
22 hitting a curb. 03:52:29

23 Q And it's that ramp portion that I'm 03:52:29
24 referring to. 03:52:31

25 Do you understand that to be the driveway 03:52:32

1	apron?	03:52:35
2	A Yes, sir.	03:52:35
3	MR. CASILLAS: I want to show you another	03:52:35
4	photograph we're going to mark that as next in order	03:52:36
5	No. 16. Would you do the honors? Thanks.	03:52:41
6	(Plaintiffs' Exhibit 16 was marked.)	03:52:41
7	BY MR. CASILLAS:	03:52:41
8	Q Do you see that photograph?	03:52:49
9	A Yes, sir.	03:52:50
10	Q And there is a gentleman standing there on	03:52:52
11	the driveway apron, correct?	03:52:56
12	A Yes, sir.	03:52:58
13	Q And is that, as best you could tell here	03:52:59
14	today, the position where Eric Rivera was standing	03:53:01
15	when you shot at him?	03:53:04
16	MR. BRENT: Okay. So we just need to be	03:53:05
17	clear about this. Are you just asking him about in	03:53:08
18	relation to where the feet are on the ground or are	03:53:10
19	you asking anything else about this photograph?	03:53:12
20	BY MR. CASILLAS:	03:53:14
21	Q I'm just asking where that individual is	03:53:15
22	standing depicted there in Exhibit No. 16, is that	03:53:17
23	where Eric Rivera was standing?	03:53:21
24	A As far as standing only?	03:53:23
25	Q Yes.	03:53:25

1	A	Yes.	03:53:26
2	Q	Okay. Now, the individual in this	03:53:26
3		photograph appears to be holding something in his	03:53:29
4		right hand.	03:53:31
5		Do you see that?	03:53:32
6	A	Yes, sir.	03:53:32
7	Q	Does that appear to be a squirt gun similar	03:53:34
8		to the squirt gun that we looked at earlier,	03:53:37
9		Exhibit No. 12?	03:53:40
10	A	Due to being -- not being up close and	03:53:42
11		personal, I couldn't tell you that right now.	03:53:45
12	Q	And did you ever see Mr. Rivera standing in	03:53:50
13		this configuration, in other words, facing you with	03:53:53
14		both of his arms at his side?	03:53:57
15	A	No.	03:54:00
16	Q	Now, the individual in this photograph is	03:54:00
17		holding something in his right hand.	03:54:06
18		Would you agree?	03:54:09
19	A	Yes, the individual in this picture is	03:54:10
20		holding something in his right hand, yes.	03:54:13
21	Q	Now, you believe your testimony or your	03:54:14
22		statements before have consistently been that	03:54:17
23		Mr. Rivera was holding something in his left hand,	03:54:21
24		true?	03:54:25
25	A	Yes, sir.	03:54:25

1 Q Okay. And did you ever see Mr. Rivera 03:54:26
2 holding anything in his right hand? 03:54:30
3 A No, sir. 03:54:33
4 Q To the extent you claim to have seen 03:54:33
5 anything being held by Mr. Rivera, he was holding it 03:54:39
6 in his left hand, correct? 03:54:45
7 A Yes, sir. 03:54:48
8 Q Have you ever met Eric Rivera at any time 03:54:53
9 before June 6th, 2017? 03:56:21
10 A No, sir. 03:56:25
11 Q Now, I understand you grew up in that 03:56:26
12 general area. Yes? 03:56:28
13 A In the area, yes. 03:56:30
14 Q And before you stopped your vehicle, did you 03:56:31
15 believe the night of the shooting of Mr. Rivera and 03:56:44
16 before you got out of your patrol car, did you 03:56:48
17 believe that Mr. Rivera was a gang member? 03:56:51
18 A I couldn't tell. 03:56:56
19 Q Okay. Was there anything about his attire 03:56:58
20 that suggested to you that he was a gang member? 03:57:01
21 A No. 03:57:07
22 Q Okay. In light of that, is it fair to say 03:57:08
23 that to the extent you had any fear, you did not fear 03:57:11
24 that he was a gang member, correct? 03:57:17
25 A Unfortunately, due to now circumstances that 03:57:21

1 gang members have altered their appearance, 03:57:24
2 unfortunately due to a perception that was done in 03:57:27
3 the '80s of gangsters having long white shirts and 03:57:30
4 Dickie pants and white shoes, gang members have 03:57:35
5 altered their appearance to resemble -- it's odd to 03:57:39
6 say -- but a law-abiding citizen. 03:57:45
7 Q And I get that, but my question is, was 03:57:47
8 there anything about -- you didn't think he was a 03:57:51
9 gang member, did you? 03:57:54
10 A I couldn't tell you, but he didn't seem like 03:57:56
11 one, no. 03:58:00
12 Q Okay. And I guess that's my point. In all 03:58:01
13 of the factors that you considered, one of them 03:58:03
14 wasn't, goodness, he's a gang member, correct? 03:58:07
15 A No. 03:58:11
16 Q Okay. And that's a horrible way to ask a 03:58:11
17 question. It's a double negative, so let me rephrase 03:58:14
18 that. 03:58:17
19 Was one of the factors that you considered 03:58:19
20 before you shot Mr. Rivera was that he was a gang 03:58:23
21 member? 03:58:31
22 A No. 03:58:31
23 Q Did you make -- did you have time to make an 03:58:33
24 assessment as to whether or not he was under the 03:58:40
25 influence of drugs? 03:58:44

1 A I did not have time to make an assessment 03:58:45
2 for that, no. 03:58:48

3 Q And so in light of that, when you shot him, 03:58:49
4 whether or not he was on drugs was not a factor that 03:58:54
5 went into your decision-making, correct? 03:58:59

6 A Correct, sir. 03:59:02

7 Q Prior to shooting Mr. Rivera in the line of 03:59:04
8 duty -- and by the way, you did it in the line of the 03:59:30
9 duty, there's no doubt in your mind, correct? 03:59:33

10 A Yes, sir. 03:59:35

11 Q Okay. And prior to that shooting, had you 03:59:35
12 ever been involved in any other incident where you 03:59:41
13 discharged your firearm in the line of duty at 03:59:49
14 another person? 03:59:52

15 MR. BRENT: So I'm going to object, it 03:59:53
16 calls for confidential peace officer personnel record 03:59:55
17 information and additional official information, 03:59:58
18 invades the officer's right to privacy. 04:00:00

19 I'm going to instruct him not to answer. 04:00:02

20 MR. CASILLAS: I propose that you allow me 04:00:04
21 to ask that question in a confidential setting on a 04:00:06
22 confidential transcript. 04:00:10

23 MR. BRENT: And I respectfully decline the 04:00:10
24 offer. 04:00:13

25 BY MR. CASILLAS: 04:00:14

1 Q On June 6th, 2017 had you qualified on the 04:00:22
2 range? 04:00:30
3 MR. BRENT: On that day? 04:00:31
4 BY MR. CASILLAS: 04:00:32
5 Q No. By that point were you qualified? 04:00:33
6 A We're required to qualify every two months. 04:00:36
7 Q Right. 04:00:38
8 A As far as a cycle is concerned, I'm not sure 04:00:39
9 if I did qualify yet or I qualified after, but I do 04:00:43
10 qualify on every qualifying cycle. 04:00:47
11 Q Have you ever failed to qualify? 04:00:49
12 A Yes. 04:00:51
13 Q Okay. And do you know you had failed to 04:00:51
14 qualify during that cycle that you were in at the 04:00:53
15 time you shot Eric Rivera? 04:00:58
16 A No, sir, failure to qual was due to a 04:01:00
17 mechanical error. 04:01:03
18 Q Prior to June 6, 2017, had you worked 04:01:05
19 directly with Officer Urrutia? 04:01:22
20 A No, sir. 04:01:26
21 Q Okay. Had you met him prior to June 6th? 04:01:27
22 A Not formally. 04:01:31
23 Q Did you know of him? 04:01:33
24 A Yes. 04:01:36
25 Q Since then have you worked together? 04:01:37

1	A	Yes.	04:01:39
2	Q	Since then have you discussed the Rivera	04:01:41
3		shooting at all?	04:01:44
4		MR. BRENT: Okay. So that excludes any	04:01:46
5		conversations that were in my presence or any of your	04:01:49
6		attorneys' presence, so if you had conversations with	04:01:53
7		him outside of my presence or any other city	04:01:55
8		attorney's presence, please answer counsel's	04:01:59
9		question.	04:02:02
10		BY MR. CASILLAS:	04:02:02
11	Q	Let me rephrase the question.	04:02:02
12		Excluding any conversations that you had	04:02:04
13		with Mr. Urrutia while any of your attorneys were	04:02:05
14		present, have you ever discussed the Rivera shooting	04:02:09
15		with him?	04:02:16
16	A	Yes, sir.	04:02:16
17	Q	How many times?	04:02:18
18	A	I couldn't honestly tell you.	04:02:21
19	Q	More than ten?	04:02:23
20	A	Possibly.	04:02:25
21	Q	Okay. Do you remember the first time that	04:02:26
22		you discussed it with him outside the presence of	04:02:30
23		your attorneys?	04:02:33
24	A	It was way after the incident.	04:02:35
25	Q	Approximately how long?	04:02:38

1 A I want to say approximately two months. 04:02:43

2 Q And what was the nature of that -- where did 04:02:47

3 that conversation take place? 04:02:49

4 A It was over the phone. 04:02:51

5 Q Did he call you or did you call him? 04:02:52

6 A I don't remember. 04:02:55

7 Q Do you remember calling him at all ever to 04:02:58

8 discuss the shooting? 04:03:00

9 A I don't remember. 04:03:04

10 Q The conversations over the phone -- and by 04:03:06

11 the way, were these all -- all the conversations that 04:03:11

12 you had with Mr. Urrutia about the shooting conducted 04:03:15

13 over the phone? 04:03:19

14 A No. 04:03:19

15 Q Do you consider Mr. Urrutia a social friend? 04:03:21

16 MR. BRENT: I'll just object as vague and 04:03:27

17 ambiguous. 04:03:27

18 But you can answer if you understand. 04:03:29

19 THE WITNESS: A social friend outside of 04:03:30

20 work? 04:03:32

21 BY MR. CASILLAS: 04:03:32

22 Q Yes. 04:03:33

23 A Yes. 04:03:33

24 Q Have you ever been over to his house? 04:03:33

25 A No. 04:03:35

1 Q Has he ever been over to your place? 04:03:36

2 A Yes. 04:03:39

3 Q Okay. Have you guys ever gone out socially, 04:03:40

4 a ball game, a party, a club? 04:03:44

5 A No, sir. 04:03:47

6 Q Were you social friends before the shooting? 04:03:51

7 A No, sir. 04:03:55

8 Q Do you remember Mr. Urrutia shooting at 04:03:58

9 Mr. Rivera before you shot? 04:04:15

10 A No. 04:04:17

11 Q Do you believe you shot first? 04:04:20

12 A From what I perceived that night, I couldn't 04:04:25

13 tell, but after reviewing my body worn and what I 04:04:32

14 know now, I did shoot first. 04:04:35

15 Q Was June 6th the first time you had been 04:04:37

16 partnered up with Mr. Urrutia? 04:05:23

17 A June 6th, 2017? 04:05:26

18 Q Yes. 04:05:28

19 A Yes, sir. 04:05:28

20 Q And do you remember the briefing that took 04:05:29

21 place at the start of the shift that day? 04:05:32

22 MR. BRENT: Okay. So I'm going to object. 04:05:34

23 Are you talking about rollcall? 04:05:36

24 MR. CASILLAS: Yes. 04:05:37

25 THE WITNESS: There was a rollcall. I do 04:05:38

1 not remember what was discussed during rollcall. 04:05:40

2 BY MR. CASILLAS: 04:05:42

3 Q Do you know how it was that you were 04:05:44

4 assigned as partners? 04:05:46

5 A I don't know, but we were partners that 04:05:50

6 night. 04:05:53

7 Q You checked out equipment. 04:05:54

8 A One of us did. 04:05:58

9 Q Okay. 04:05:59

10 A Or both. 04:06:01

11 Q The patrol car that you drove that day, had 04:06:02

12 you driven it before? 04:06:06

13 A It was only my second month there, so I'm 04:06:10

14 not sure. I couldn't tell you. I had driven the 04:06:13

15 same model type, but that specific vehicle, I'm not 04:06:18

16 sure. 04:06:21

17 Q And do you remember the model type? 04:06:23

18 A It's a Ford Crown Victoria. 04:06:25

19 Q And you've probably driven a Ford Crown 04:06:28

20 Victoria patrol car probably thousands of times by 04:06:33

21 the time June 6th rolls around, correct? 04:06:36

22 A I don't know if I could tell you thousands 04:06:40

23 of times because we work a certain amount of days 04:06:42

24 throughout the year. 04:06:45

25 Q At least hundreds of times? 04:06:46

1 exited the vehicle and before the shooting, did the 04:07:56
2 brakes on that Crown Victoria patrol car function 04:08:04
3 properly? 04:08:08
4 A Yes, sir. 04:08:08
5 Q Did the transmission during any time that 04:08:09
6 you used that vehicle that day have any problems that 04:08:17
7 you can recall? 04:08:20
8 A No, sir. 04:08:22
9 Q I understand that that shift started at 04:08:22
10 3:00 p.m. 04:08:28
11 A I would say so, yes. 04:08:30
12 Q And by the time you got on the road it was 04:08:32
13 about 3:30 p.m.? 04:08:34
14 A More than likely, yes, sir. 04:08:35
15 Q And you were the driver officer that night. 04:08:36
16 A Yes, sir. 04:08:42
17 Q And was there any reason why it was that you 04:08:42
18 were the driver officer? 04:08:46
19 A I don't know. 04:08:48
20 Q And did you guys flip for it or -- 04:08:49
21 A No. 04:08:57
22 Q And obviously Mr. Urrutia, by the time 04:08:58
23 June 6th, 2017 had come around, he had more 04:09:03
24 experience than you; is that -- do you understand 04:09:08
25 that then? 04:09:11

1 did you and Mr. Urrutia have any conversations about 04:10:24
2 tactics? 04:10:27

3 A It's a common practice usually that I do 04:10:30
4 with my partners, I was the designated contact 04:10:35
5 officer and he was the cover officer for the night, 04:10:38
6 and we advised where different equipment was on our 04:10:44
7 persons and what type of firearm we were carrying, so 04:10:48
8 there was a conversation of tactics. 04:10:51

9 Q Okay. And you were the designated contact 04:10:53
10 person. As far as you understood, what would be your 04:10:58
11 role in contacting a suspect? 04:11:00

12 MR. BRENT: So I'm just going to object. 04:11:04
13 This is in general, right? 04:11:05

14 MR. CASILLAS: No, I'm talking about his 04:11:07
15 role that night, what was his understanding of his 04:11:08
16 role as a contact officer that night. 04:11:12

17 THE WITNESS: As far as a contact officer is 04:11:17
18 concerned, a contact officer will deal with the 04:11:19
19 public, have a conversation or conduct the 04:11:24
20 investigation while the cover officer, for lack of 04:11:27
21 better words, watches his back to make sure there are 04:11:31
22 no threats that become -- arise to the situation. 04:11:34

23 BY MR. CASILLAS: 04:11:39

24 Q And other than designating -- having a 04:11:39
25 conversation where -- and by the way, did you propose 04:11:45

1 that you would be contact or did he propose that? 04:11:47

2 A I couldn't tell you, sir. 04:11:53

3 Q Had you been the contact officer before? 04:11:55

4 A Yes. 04:11:59

5 Q On many occasions? 04:12:00

6 A Yes, sir. 04:12:01

7 Q Had you patrolled in a single -- in a 04:12:02

8 single-man unit before? 04:12:04

9 A Yes, sir. 04:12:06

10 Q Okay. There in the Wilmington area? 04:12:08

11 A Yes, sir. 04:12:12

12 Q The assignment to the -- and, again, the 04:12:14

13 station was which station on June 6th? 04:12:27

14 A That we were assigned to? 04:12:30

15 Q Yes. 04:12:32

16 A Harbor station. 04:12:33

17 Q Harbor. Sorry. The decision to go to 04:12:34

18 Harbor, was that something you sought out? 04:12:39

19 MR. BRENT: His decision to work at Harbor 04:12:40

20 station? 04:12:43

21 BY MR. CASILLAS: 04:12:44

22 Q The decision that you go to Harbor 04:12:44

23 station -- 04:12:46

24 A Mr. Casillas, could you be more specific 04:12:48

25 as -- did I want to work there as a police officer 04:12:51

1 or -- 04:12:53

2 Q Yes. 04:12:53

3 A -- did I just want to go back to the 04:12:53

4 station? 04:12:56

5 Q I'm sorry. As I understand, at the time the 04:12:57

6 shooting happened, you were working as a patrol 04:13:00

7 officer out of the Harbor station. Yes? 04:13:04

8 A Yes, sir. 04:13:06

9 Q And you had that assignment I think for 04:13:06

10 about nine months, correct? 04:13:10

11 A At the time of the incident, it was only two 04:13:12

12 months, sir. 04:13:14

13 Q Two months. And the assignment, in other 04:13:15

14 words, you being a patrol officer at Harbor division, 04:13:18

15 was that something that you sought out? 04:13:23

16 A Yes. 04:13:25

17 Q Why? 04:13:26

18 A I would -- I would advise it to counsel; 04:13:30

19 however, it might interfere with my police officer's 04:13:35

20 rights as far as maybe where I live. 04:13:40

21 Q Okay. Are you suggesting that it's some 04:13:43

22 sort of confidential information? 04:13:48

23 A Yes. 04:13:52

24 Q Okay. Would you like to discuss that with 04:13:53

25 your attorney? 04:13:55

1 Q Operation course. Do you remember that 04:24:11
2 training generally? 04:24:13

3 A For the most part, yes. 04:24:14

4 Q You completed it successfully? 04:24:16

5 A Yes, sir. 04:24:18

6 Q And I'm assuming that at the time of the 04:24:19
7 incident you're involved with Mr. Rivera, you had a 04:24:23
8 California driver's license. 04:24:24

9 A Yes, sir. 04:24:25

10 Q Had you -- and you heard Mr. Urrutia tell us 04:24:26
11 that he himself had once experienced -- had an 04:24:30
12 experience where he had failed to put the car -- his 04:24:32
13 patrol car in park and had a runaway vehicle 04:24:37
14 situation. 04:24:41

15 Do you remember hearing that? 04:24:41

16 A Yes, sir. 04:24:43

17 Q At any time before June 6th, 2017, had you 04:24:43
18 heard that there were such incidents where a LAPD 04:24:48
19 police officer in making contact with a suspect or a 04:24:56
20 vehicle and failed to put it in park and had that 04:25:01
21 sort of scenario where the vehicle rolled away? 04:25:05

22 A Yes, I have heard of that occurring on 04:25:08
23 multiple occasions, however, I don't know the 04:25:10
24 circumstances or the people involved. 04:25:13

25 Q Okay. And you knew of that circumstance or 04:25:17

1 those circumstances before June 6, 2017, correct? 04:25:21

2 A Yes, sir. 04:25:25

3 Q Would you agree that it is a good idea to 04:25:28

4 put the car in park before you get out? And I'm not 04:25:33

5 being argumentative or rhetorical, but just as a 04:25:37

6 matter of police officer safety, it's important to 04:25:40

7 make sure that the vehicle is secured in park before 04:25:42

8 you exit it if you're the driver. Yes? 04:25:46

9 A Police officer or citizen, yes. 04:25:49

10 Q Okay. And why is it on important especially 04:25:52

11 in a high-risk contact? 04:25:56

12 A Because the vehicle could strike possibly 04:25:59

13 other pedestrians or crash into a car inadvertently 04:26:02

14 doing something. 04:26:08

15 Q And would you also agree it creates a 04:26:08

16 distraction, in other words, you move your focus to a 04:26:10

17 runaway car? 04:26:15

18 A It can cause a distraction. I agree with 04:26:16

19 that, yes. 04:26:18

20 Q Other than the incident involving Mr. Rivera 04:26:18

21 where you failed to put it in park, had you done so 04:26:22

22 before ever? 04:26:24

23 A As far as failing to put a car in park? 04:26:25

24 Q Yes. 04:26:27

25 A No, sir. 04:26:28

1 Q Have you done it since? 04:26:29

2 A No, sir. 04:26:31

3 Q Were you disciplined for that? 04:26:32

4 MR. BRENT: Okay. So I'm going to object 04:26:33

5 that would call for confidential peace officer 04:26:36

6 personnel record information, official information 04:26:36

7 and violate this officer's right to privacy, so I'm 04:26:42

8 going to instruct him not to answer. 04:26:44

9 MR. CASILLAS: I propose we go off the -- we 04:26:45

10 go on to a confidential transcript to discuss whether 04:26:48

11 or not he was disciplined for failing to have put the 04:26:53

12 vehicle in park. 04:26:56

13 MR. BRENT: And I will respectfully decline 04:26:57

14 your offer. 04:27:00

15 BY MR. CASILLAS: 04:27:00

16 Q Do you remember ever being told in your 04:27:20

17 training, any of the training you received from the 04:27:22

18 LAPD, that a police officer must make sure that he 04:27:24

19 puts his vehicle in park if he's the driver of that 04:27:30

20 vehicle before exiting it to contact a suspect? 04:27:33

21 A There are perishable skills training, such 04:27:39

22 as slow driving that is put on once or -- once a year 04:27:44

23 or every other year for every officer. At one of 04:27:47

24 those trainings it was advised that at the end of the 04:27:54

25 course, you should place the vehicle in park. 04:27:58

1 Q And did they emphasize the significance of 04:28:00
2 not putting it in park? In other words, what would 04:28:03
3 happen if you don't do it? 04:28:06

4 A That the vehicle would get away from you. 04:28:07

5 Q And, again, is that where you learned all of 04:28:09
6 the possible -- you know, the safety issues, not only 04:28:13
7 for the police officers, but even for the public. 04:28:15
8 Yes? 04:28:18

9 A As far as for learning the fact that a 04:28:18
10 runway vehicle would cause harm to someone, I would 04:28:22
11 learn that when applying for my California driver's 04:28:25
12 license. 04:28:28

13 Q Okay. So the LAPD didn't have to tell you 04:28:28
14 that you have to put it in park, right? 04:28:32

15 A No, sir. 04:28:33

16 Q But nonetheless, they did emphasize that in 04:28:33
17 training at some point, though, correct? 04:28:37

18 A Yes, sir. 04:28:39

19 Q And then just for the record, you failed to 04:28:40
20 put it in park, correct? 04:28:44

21 A Are you referring to as what I perceived 04:28:47
22 that night or what I know now? 04:28:49

23 Q No. I'm asking about any of your 04:28:51
24 perception. 04:28:55

25 At some point after you got out of the 04:28:56

1 vehicle, you noticed that it was moving forward 04:28:59
2 towards Eric Rivera, yes? 04:29:10
3 A Yes, sir. 04:29:12
4 Q And did you conclude when you saw it moving 04:29:13
5 forward towards Eric Rivera that it was not -- that 04:29:17
6 you had not put it in park? 04:29:20
7 A Yes, sir. 04:29:22
8 Q Now, in addition to putting it in park, do 04:29:24
9 you remember that the vehicle has a pedal for the 04:29:27
10 emergency brake? 04:29:32
11 A I am -- 04:29:33
12 Q Parking brake for lack of a better word. 04:29:34
13 A I am aware of that, sir, yes. 04:29:37
14 Q And so you got there -- underneath the 04:29:39
15 steering wheel, you've got the accelerator, you've 04:29:41
16 got the brake, and you've got the emergency brake, 04:29:43
17 correct? 04:29:46
18 A Yes, sir. 04:29:46
19 Q Okay. And I'm assuming that, again, 04:29:47
20 hundreds of times you had depressed the emergency 04:29:53
21 brake on the Crown Vics that you used before 04:29:56
22 June 6th, 2017 to stop the vehicle safely or to 04:29:59
23 secure it before getting out. Yes? 04:30:03
24 MR. BRENT: Are you talking about parking 04:30:06
25 brake? 04:30:06

1 MR. CASILLAS: Yes. 04:30:08

2 THE WITNESS: The emergency brake or parking 04:30:08

3 brake? 04:30:12

4 BY MR. CASILLAS: 04:30:12

5 Q Let's call it the parking brake. Okay. 04:30:12

6 That pedal that's to the left of the brake pedal. 04:30:14

7 A That's only going to be the emergency pedal, 04:30:19

8 sir. 04:30:22

9 Q And what is that pedal again, emergency 04:30:22

10 brake? 04:30:24

11 A Emergency brake. 04:30:24

12 Q And is that different than the parking 04:30:26

13 brake? 04:30:28

14 A Yes, sir. 04:30:28

15 Q And where is parking brake located? 04:30:29

16 A Just left of the gas pedal. 04:30:31

17 Q Left of the gas pedal. 04:30:33

18 A And it depends what country you're in. 04:30:39

19 Q That's true. We're not talking about 04:30:42

20 France, at least today, but the -- so to make sure I 04:30:44

21 understand the different pedals there on the Crown 04:30:48

22 Vic, you've got the accelerator, that's the rightmost 04:30:52

23 pedal. Yes? 04:30:52

24 A I'm sorry. Sir, could you repeat that? 04:30:55

25 Q The Crown Vic -- focusing on the Crown Vic 04:30:57

1 that you operated on June 6, 2017, three pedals below 04:31:00
2 the steering wheel, yes? 04:31:07
3 A Yes, sir. 04:31:10
4 Q And the rightmost pedal is what? 04:31:10
5 A The gas pedal, sir. 04:31:12
6 Q And to the left of the gas pedal is what? 04:31:14
7 A The brake pedal. 04:31:16
8 Q And to the left of the brake pedal is? 04:31:17
9 A An emergency brake. 04:31:20
10 Q Do you also call the emergency brake the 04:31:24
11 parking brake? 04:31:26
12 A No. 04:31:27
13 Q And was it your practice upon stopping the 04:31:27
14 Crown Vic and putting it in park to exit the vehicle 04:31:31
15 to also depress the emergency brake? 04:31:35
16 A From my practices, I never placed the 04:31:40
17 emergency brake on to basically perform my duties. 04:31:45
18 Q So you don't press the emergency brake. You 04:31:52
19 just put it in park, correct? 04:31:56
20 A I press in the brake, that as a result will 04:31:58
21 allow you to put the vehicle into park as a result. 04:32:01
22 Q Okay. So you depress the brake, the regular 04:32:04
23 brake, put it in park, and then exit the vehicle; 04:32:07
24 that was your practice, correct? 04:32:10
25 A Yes, sir. 04:32:11

1 Q All right. Did you see the vehicle strike 04:32:12
2 Eric Rivera? 04:32:34
3 A No, sir. 04:32:35
4 Q Was there something blocking your field of 04:32:37
5 view as to Eric Rivera when the vehicle struck him? 04:32:40
6 A Yes, sir. 04:32:43
7 Q What was blocking your field of view? 04:32:44
8 A The hood, the front hood of vehicle. 04:32:46
9 Q Because you had attempted to jump in the 04:32:49
10 vehicle to stop it, correct? 04:32:51
11 MR. BRENT: Hold on. I'm going to just 04:32:53
12 object to the form of the question. I think the 04:32:55
13 question assumes that's why he couldn't see in a 04:32:58
14 certain time sequence, but I don't know that you 04:33:00
15 established a question. 04:33:03
16 BY MR. CASILLAS: 04:33:04
17 Q After realizing that you had a runaway 04:33:04
18 vehicle, you attempted to jump back into the vehicle 04:33:06
19 after shooting Eric Rivera to stop the vehicle, 04:33:09
20 correct? 04:33:12
21 A Unfortunately, I couldn't jump in the 04:33:13
22 vehicle. Wilmington Boulevard is at a slope, so in 04:33:16
23 the middle of the lanes it's at its highest peak. As 04:33:21
24 it's going towards the curb line, it slopes down and 04:33:25
25 unfortunately, from -- the distance from where our 04:33:30

1 patrol vehicle was to Mr. Rivera's location, it was a 04:33:31
2 very short distance. The vehicle was covering too 04:33:35
3 much ground, so I knew I couldn't jump in the 04:33:38
4 vehicle, and I didn't want it to hit him, so I 04:33:41
5 tried -- the best I could do is at least try to put 04:33:46
6 my foot on the brake and stop the vehicle. I could 04:33:48
7 not jump back in. 04:33:51
8 Q Were you successful in doing that? 04:33:52
9 A I did hit the brake. I inadvertently hit 04:33:56
10 the gas pedal as well, which caused the revving of 04:34:01
11 the motor of the engine, but there was no 04:34:07
12 acceleration as a result. 04:34:09
13 Q You didn't feel any acceleration? 04:34:10
14 A (No audible response.) 04:34:13
15 MR. BRENT: You have to answer audibly. 04:34:15
16 THE WITNESS: Oh, I'm sorry. No, sir. 04:34:16
17 BY MR. CASILLAS: 04:34:17
18 Q Was the vehicle in, as far as you could 04:34:18
19 determine, in neutral, if you know? 04:34:19
20 A From that night what I perceived is I 04:34:25
21 believed it was in neutral. It's different from what 04:34:29
22 I know now. 04:34:32
23 Q Did you later learn that it never came out 04:34:33
24 of drive? 04:34:35
25 A Yes, sir. 04:34:36

1 Q And so if it was in drive and you depressed 04:34:39
2 the accelerator, assuming that it was functioning 04:34:42
3 properly, you would have expected it to have 04:34:45
4 accelerated forward, correct? 04:34:48
5 MR. BRENT: Well, I'm going to object 04:34:50
6 that's incomplete hypothetical because he said he hit 04:34:50
7 the brake and the gas at the same time, so that's not 04:34:53
8 what he testified to, unless you just want to know in 04:34:56
9 general if you hit the gas pedal on a Crown Vic if it 04:34:58
10 goes forward. 04:35:00
11 BY MR. CASILLAS: 04:35:04
12 Q Did it appear to you that depressing the 04:35:04
13 brake and the accelerator at the same time -- and you 04:35:08
14 believe did you that. Yes? 04:35:11
15 MR. BRENT: Okay. So I'm going to object. 04:35:12
16 That night he thought that or now he thinks that? 04:35:14
17 MR. CASILLAS: That night. 04:35:16
18 MR. BRENT: Okay. 04:35:17
19 THE WITNESS: From that night, sir, yes. 04:35:18
20 BY MR. CASILLAS: 04:35:19
21 Q And did you -- did you sense that as a 04:35:20
22 result of compressing both of those pedals together 04:35:23
23 at the same time, that it didn't have any effect in 04:35:26
24 reducing the speed of the vehicle, correct? 04:35:32
25 A Yes, sir. 04:35:35

1 Q Did you feel any acceleration at all? 04:35:37

2 A No, sir. 04:35:41

3 Q It continued to move at the speed that it 04:35:42

4 was moving? 04:35:46

5 A Yes. 04:35:47

6 Q Which was about somewhere between three and 04:35:47

7 five miles an hour, correct? 04:35:49

8 MR. BRENT: I'm going to object that calls 04:35:50

9 for speculation, lacks foundation, calls for an 04:35:52

10 expert opinion. 04:35:54

11 THE WITNESS: I couldn't tell you, sir. 04:35:54

12 BY MR. CASILLAS: 04:35:56

13 Q Can you give me an estimate? 04:35:56

14 A It wasn't going 20. It wasn't going zero. 04:35:58

15 Q Was it going somewhere between one and ten 04:36:04

16 miles an hour? 04:36:08

17 A More than likely. 04:36:08

18 Q At some point that evening did you learn of 04:36:10

19 a call involving a man with a gun? 04:36:26

20 A From the night of -- 04:36:31

21 Q Yes. 04:36:35

22 A Yes, sir. 04:36:35

23 Q And do you remember where you were when you 04:36:36

24 heard that call come over the radio? 04:36:38

25 A I know of the general area, yes, sir. 04:36:40

1 location? 04:37:57

2 BY MR. CASILLAS: 04:37:59

3 Q Yes. 04:37:59

4 A As we're approaching the scene, 04:38:00

5 communications are dispatched, does advise of an 04:38:02

6 update possible location. 04:38:05

7 Q And where was that location? 04:38:07

8 A Advised the suspect was possibly heading 04:38:10

9 southbound on Wilmington Boulevard towards Anaheim. 04:38:14

10 Q You're familiar with the location generally? 04:38:18

11 A The area, yes, sir. 04:38:23

12 MR. BRENT: I'll just object as vague and 04:38:24

13 ambiguous. 04:38:24

14 But you can answer. 04:38:26

15 BY MR. CASILLAS: 04:38:26

16 Q And from the point where you first heard the 04:38:28

17 call until the time that you excited your vehicle, 04:38:30

18 how much distance was travelled? 04:38:35

19 A Sir, as far as I seen the vehicle, that's 04:38:36

20 when we encountered Mr. Rivera? 04:38:39

21 Q Yes. 04:38:42

22 A How much time? 04:38:44

23 Q Yes. 04:38:45

24 MR. BRENT: I thought he said distance. 04:38:45

25 When you heard the radio call until you got out of 04:38:47

1 the police car. 04:38:51

2 THE WITNESS: I would say approximately one 04:38:52

3 to two miles. 04:38:55

4 BY MR. CASILLAS: 04:38:55

5 Q And did you request authorization to go code 04:38:57

6 three? 04:39:00

7 A No, sir. 04:39:01

8 Q Do you understand what code three is? 04:39:02

9 A Yes, sir. 04:39:04

10 Q And what is code three? 04:39:05

11 A It's an emergency response to a location. 04:39:06

12 Q It allows you to drive to the location in 04:39:09

13 the excess of the speed limit, correct? 04:39:12

14 A It allows us to drive to the location 04:39:16

15 adhering to -- to the rules of the road, however, in 04:39:20

16 a rapid manner. 04:39:25

17 Q And it allows -- authorizes you to use 04:39:26

18 lights and sirens, right? 04:39:30

19 A Yes, sir. 04:39:31

20 Q And although you are driving to a location 04:39:32

21 code three, you're still required to safely clear all 04:39:36

22 intersections that you go through, correct? 04:39:40

23 A Yes, sir. 04:39:42

24 Q So driving code three, you could go through 04:39:43

25 a red light that is controlling your direction of 04:39:45

1 traffic through an intersection so long as you clear 04:39:50
2 the intersection, correct? 04:39:52
3 A Yes, sir. 04:39:54
4 Q And are you familiar with the procedure of 04:39:55
5 clearing an intersection? 04:39:59
6 A There is no documentation that states a 04:40:05
7 specific down to the exact rule of how to do it. 04:40:09
8 Q Yes. 04:40:12
9 A However, the way I perceive it and I do it 04:40:12
10 is either all pedestrians and all vehicles come to a 04:40:16
11 stop prior to me entering that intersection, like, 04:40:21
12 cross-traffic. 04:40:25
13 Q And in going through an intersection code 04:40:26
14 three, are you required to clear every lane that you 04:40:32
15 traverse? 04:40:36
16 MR. BRENT: I'll just object as vague and 04:40:37
17 ambiguous. 04:40:37
18 You can answer if you understand. 04:40:40
19 THE WITNESS: You have to drive in a safe 04:40:42
20 manner, so as a part of driving safely, you should 04:40:44
21 clear the lane that you're moving into. 04:40:49
22 BY MR. CASILLAS: 04:40:53
23 Q And was that per your instruction or per 04:40:54
24 your practice? 04:40:57
25 A Per my practice. 04:40:58

1 Q Did you request a code three authorization? 04:40:59

2 A No, sir. 04:41:07

3 Q Why not? 04:41:07

4 A Well, there's two -- two gamuts to that. My 04:41:09

5 partner was the passenger officer, who is, for the 04:41:13

6 most part, in charge of communications to dispatch. 04:41:16

7 Q Right. 04:41:18

8 A The other portion of that, which I would 04:41:20

9 advise him not to put us in a code three situation, 04:41:25

10 we're at -- the active light and sirens is due to our 04:41:29

11 tactical advantage at that point. We were generally 04:41:33

12 in the area, and unfortunately with lights and sirens 04:41:35

13 sometimes it alerts suspects that we're coming, so it 04:41:38

14 would give them the advantage to somewhat take a 04:41:42

15 position of advantage of cover and wait for lie -- 04:41:45

16 lie and wait for us to arrive at a location. 04:41:49

17 And so in that retrospect, it would give us 04:41:52

18 the advantage, not -- it would be advantageous on us 04:41:56

19 not to go lights and sirens. 04:42:00

20 Q At any time before you arrived at the 04:42:01

21 location where you eventually shot Mr. Rivera, did 04:42:04

22 you have any communication with the unit that the 04:42:10

23 call was assigned to? 04:42:13

24 A The primary, yes, sir. 04:42:15

25 Q And do you remember who the officers were in 04:42:17

1	that unit?	04:42:20
2	A Yes, sir.	04:42:21
3	Q Who were they?	04:42:22
4	A This were Officer Andres Martinez and	04:42:24
5	Officer Marc Sternin.	04:42:29
6	Q And what was the nature of the conversation	04:42:31
7	or communications you had with them as you were in	04:42:35
8	route to the location?	04:42:37
9	A We had arrived to the location.	04:42:39
10	Q Right.	04:42:41
11	A And due to the updated comments, we were	04:42:42
12	going southbound Wilmington Boulevard from PCH --	04:42:45
13	Q Right.	04:42:45
14	A -- going southbound. As we are going	04:42:49
15	southbound approaching I want to say Robidoux or M,	04:42:51
16	we see -- well, I see the prime unit 5 A25 Martinez	04:42:58
17	and Sternin going northbound.	04:43:05
18	Q On which road?	04:43:07
19	A On Wilmington Boulevard approaching PCH.	04:43:11
20	There is no stop and conversation. It's more of	04:43:12
21	we're going that way and they were going to -- I	04:43:18
22	couldn't -- I don't remember exactly what was said,	04:43:21
23	but I do remember from that night that I made a	04:43:22
24	motion that we're going to go southbound.	04:43:27
25	Q Did you actually stop?	04:43:30

1 working? 04:44:34

2 A Prior to the start of the watch, I conduct a 04:44:35

3 vehicle check to make sure all my equipment is 04:44:39

4 working properly and that's my -- that's my practice. 04:44:42

5 I don't exactly remember if they were functioning. 04:44:46

6 Q Right. 04:44:49

7 A But that's my common practice and I wouldn't 04:44:50

8 take it out of the shop if they were not working. 04:44:52

9 Q By the time -- this shooting happened at 04:44:56

10 approximately what time? 04:44:58

11 A Approximately 2100 hours, which is 9:00 p.m. 04:44:59

12 Q And by then it had been dark, June, at least 04:45:05

13 an hour, if not an hour and a half? 04:45:09

14 A More than likely, sir, yes. 04:45:11

15 Q And in that hour to hour and a half, were 04:45:13

16 you on patrol? 04:45:16

17 A Since 3:00 in the afternoon, yes. 04:45:18

18 Q Did you guys break for a meal of some sort? 04:45:21

19 A Honestly, sir, I couldn't tell you. I don't 04:45:25

20 remember. 04:45:29

21 Q And during that hour and a half of patrol 04:45:29

22 and before you had the encounter with Mr. Rivera, did 04:45:40

23 it appear to you that your headlights worked? Maybe 04:45:42

24 as you approached a vehicle, you could see the 04:45:47

25 illumination in front you? 04:45:51

1 A Sir, that hour and a half of nighttime 04:45:54
2 service? 04:45:56
3 Q Yeah. 04:45:56
4 A Yes. 04:45:56
5 Q And did you, in fact, as you sit here today 04:45:57
6 note that your lights were working? 04:45:59
7 MR. BRENT: I'm just going to object vague 04:46:01
8 and ambiguous note that his lights were working. 04:46:02
9 You can answer if you understand. 04:46:05
10 THE WITNESS: Could you ask it maybe a 04:46:07
11 little... 04:46:09
12 BY MR. CASILLAS: 04:46:09
13 Q Yeah. Did you notice that your lights -- 04:46:09
14 your headlights were working? 04:46:13
15 A They were more than likely working because 04:46:15
16 the roadway in front of us was illuminated. 04:46:18
17 Q And, I mean, obviously Mr. Urrutia didn't 04:46:22
18 say, hey, look, our headlights are bad, anything like 04:46:26
19 that, correct? 04:46:30
20 A No, sir. 04:46:31
21 Q And was it foggy that night? 04:46:31
22 A I'm going to have to remember from a year 04:46:37
23 and a half ago. That I remember, no, I don't 04:46:39
24 remember it being foggy. 04:46:44
25 Q In your experience, headlights on the top of 04:46:46

1	the vehicle you were driving easily illuminate	04:46:50
2	anything in front of the vehicle within 50 feet.	04:46:55
3	Would you agree?	04:46:57
4	MR. BRENT: Objection; easily illuminate	04:46:58
5	50 feet.	04:47:02
6	You can answer if you know.	04:47:02
7	BY MR. CASILLAS:	04:47:04
8	Q Assuming there's no fog.	04:47:04
9	A Assuming there's no fog, in perfect	04:47:05
10	conditions at night, I would agree with that.	04:47:08
11	Q Did you ever deploy your head -- your high	04:47:13
12	beams when confronting Mr. Rivera?	04:47:18
13	A No.	04:47:22
14	Q Okay. At some point before you shot him,	04:47:22
15	you steered the vehicle to your right in the	04:47:25
16	direction of Mr. Rivera, correct?	04:47:28
17	A Yes, sir.	04:47:31
18	Q Did you deploy -- did you use your	04:47:32
19	spotlight?	04:47:36
20	A I did activate my spotlights prior to	04:47:36
21	arriving to that location.	04:47:40
22	Q Right.	04:47:41
23	A But it was only a momentary turn on, turn	04:47:42
24	off, and it was off when we encountered Mr. Rivera.	04:47:47
25	Q And did you know, by the way, that a	04:47:50

1 spotlight can be used tactically? 04:47:52

2 A Yes. 04:47:54

3 Q Okay. And have you been trained to use a 04:47:54

4 spotlight tactically? 04:47:56

5 MR. BRENT: Objection; vague and ambiguous. 04:47:59

6 But you can answer if you understand it. 04:48:00

7 THE WITNESS: In the academy we were taught 04:48:01

8 that we could use the headlight as a distraction 04:48:03

9 tool, for the most part, on vehicle stops. 04:48:06

10 BY MR. CASILLAS: 04:48:10

11 Q And the headlight, you mean the spotlight? 04:48:11

12 A I'm sorry, sir. The spotlight. 04:48:13

13 Q Has it been your experience when -- and have 04:48:16

14 you yourself used a spotlight against a pedestrian? 04:48:19

15 A I've used my flashlight, but headlight, I -- 04:48:23

16 I don't think I have. 04:48:36

17 Q Spotlight you mean? 04:48:37

18 A Flashlight -- spotlight, yes. 04:48:39

19 Q And your training with respect to the use of 04:48:42

20 a spotlight on a vehicle, what is the purpose of 04:48:45

21 using the spotlight in a vehicle stopped at night? 04:48:49

22 A As far as our tactics are concerned, we 04:48:53

23 eliminate the rearview mirror and some of the side 04:48:57

24 mirrors of the vehicle, this way the person inside 04:49:02

25 the vehicle can't see us walking up on their vehicle 04:49:04

1 without them turning around. 04:49:07

2 Q The bright light conceals your position, 04:49:08

3 yes. 04:49:13

4 A Yes, sir. 04:49:14

5 MR. BRENT: Okay. Object to the form of 04:49:15

6 the question, but go on. 04:49:17

7 BY MR. CASILLAS: 04:49:23

8 Q Other than the headlights, were there any 04:49:23

9 other lights from the vehicle that illuminated any 04:49:27

10 part of the front part of the vehicle? 04:49:30

11 A There are running lights, but they don't 04:49:33

12 illuminate more than maybe a couple inches away from 04:49:38

13 the vehicle, so it would only be the headlights. 04:49:42

14 Q The light bar on top of the vehicle, were 04:49:44

15 any of the lights on it ignited -- 04:49:48

16 A The light -- 04:49:52

17 Q -- with them on? 04:49:53

18 A The light bar was on, but it was only the 04:49:54

19 rear facing amber lights; that would not illuminate 04:49:57

20 anything to the front, only to the rear. 04:50:00

21 Q Do you know if Mr. Urrutia used his 04:50:04

22 spotlight? 04:50:08

23 A In that sense, Mr. Casillas, are you asking 04:50:10

24 from that night what I knew or what I know now. 04:50:13

25 Q I'm going to assume what you know now might 04:50:17

1	be more accurate.	04:50:20
2	Do you know that he used his spotlight that	04:50:21
3	night?	04:50:24
4	A As far as knowing now?	04:50:24
5	Q Yes.	04:50:25
6	A Yes, sir. It was not on.	04:50:26
7	Q And did you believe that he had used it that	04:50:28
8	night?	04:50:30
9	A I'm not sure, sir.	04:50:30
10	Q At some point -- and, again, in the	04:50:34
11	chronology of the events, you make the right turn	04:50:42
12	onto Wilmington, you're going south, you're	04:50:44
13	travelling slowly as I think you've described. Yes?	04:50:48
14	A Yes, sir.	04:50:50
15	Q I think you said sometime --	04:50:51
16	somewhere between -- was it five and ten miles an	04:50:52
17	hour?	04:50:55
18	A Five to ten miles an hour, yes, sir.	04:50:55
19	Q Okay. As you were doing so -- and when was	04:50:57
20	it that you reduced your speed to that speed as you	04:50:58
21	proceeded south?	04:51:01
22	A Immediately as I turned onto Wilmington	04:51:03
23	Boulevard from PCH.	04:51:06
24	Q At any time before you got onto Wilmington	04:51:07
25	going south, did you stop to check the intersection	04:51:13

1 for the suspect? 04:51:17

2 A As far as stop and check, are you referring 04:51:21

3 to stopping the vehicle, exiting the vehicle, 04:51:24

4 searching the area or just stopping the vehicle 04:51:27

5 and -- 04:51:28

6 Q Stopping the vehicle and making observations 04:51:28

7 to see if the suspect, as it had been previously 04:51:31

8 reported, was still at the intersection? 04:51:35

9 A I don't believe I stopped. I believe that 04:51:38

10 we were going a slow rate of speed because we were in 04:51:41

11 the area, which he might be at any one of those 04:51:44

12 locations at that point, so I wouldn't be going fast. 04:51:47

13 So going at a slow rate, I could accurately 04:51:51

14 scan and look for the suspect as I'm driving, so with 04:51:55

15 the necessity to stop, I don't think I needed to 04:51:58

16 stop. 04:52:01

17 Q And I'm assuming that based on the 04:52:02

18 information that you received, that you took this 04:52:08

19 suspect to be dangerous? 04:52:10

20 A Any person with a firearm, absolutely, yes. 04:52:13

21 Q And as a result of that, did you yourself 04:52:16

22 want to make sure that you were surveying the area in 04:52:19

23 front of you very carefully? 04:52:27

24 A Well, searching for the suspect, yes. 04:52:32

25 Q And did you look, for example, if maybe he 04:52:34

1 was crouched down behind a vehicle? 04:52:41

2 A Could you be more specific? 04:52:45

3 Q Yeah. At any time -- I guess what I'm 04:52:47

4 trying to find out is, other than looking carefully, 04:52:49

5 I mean, did you look near vehicles, maybe look at 04:52:52

6 bushes, things like that, actually look at the 04:52:55

7 geography at any places where the suspect maybe 04:52:59

8 hiding? 04:53:02

9 MR. BRENT: Are you talking about while 04:53:02

10 he's driving in the police car or are you asking him 04:53:04

11 if he got out and walked around? 04:53:06

12 BY MR. CASILLAS: 04:53:08

13 Q No, I'm asking as you're driving. You told 04:53:08

14 me you're going slowly. You're scanning. You're 04:53:08

15 looking around for the suspect. 04:53:10

16 More specifically my question is, what were 04:53:11

17 you doing in that process of looking for the suspect? 04:53:13

18 A More specifically, what was it at the 04:53:16

19 original call location or as I'm driving on 04:53:21

20 Wilmington Boulevard? 04:53:24

21 Q As you're driving slowly at that point where 04:53:25

22 you reduced your speed and were now scanning. 04:53:27

23 A I was scanning to my left and to my right. 04:53:30

24 Obviously I can't see through vehicles, so I couldn't 04:53:34

25 see if he was crouched down behind a vehicle, but we 04:53:38

1	were actively searching, me and my partner.	04:53:42
2	Q And you yourself -- and not to speak for	04:53:44
3	Mr. Urrutia -- what were you doing as part of that	04:53:46
4	active looking?	04:53:50
5	MR. BRENT: It's been asked and answered I	04:53:52
6	don't know how many times. There's some answer	04:53:54
7	you're looking for, but I don't know what it is,	04:53:57
8	but -- I don't know how he can tell you any more than	04:53:59
9	what he's already told you.	04:54:02
10	BY MR. CASILLAS:	04:54:04
11	Q Can you give me your definition of actively	04:54:04
12	looking?	04:54:07
13	A Just using my eyes to search, looking left,	04:54:07
14	looking straight, looking right, even the quick	04:54:11
15	glance over my shoulder on my left outside my window	04:54:15
16	searching for a person that maybe matches the	04:54:19
17	description of the call.	04:54:23
18	Q Do you remember seeing a guy walking his dog	04:54:24
19	along the west sidewalk about 30 feet behind	04:54:28
20	Mr. Rivera?	04:54:40
21	A I did not see that.	04:54:42
22	Q All right. Did you later learn that, in	04:54:44
23	fact, there was somebody walking his dog behind	04:54:46
24	Mr. Rivera at the time of shooting?	04:54:50
25	A No, sir.	04:54:54

1 Q Today is the first time you heard about it? 04:54:54

2 A Yes, sir. 04:55:02

3 Q Do you know that there was an individual 04:55:02

4 that was walking his dog behind Mr. Rivera that 04:55:06

5 actually saw the shooting? 04:55:09

6 MR. BRENT: So I'm going to object. So he 04:55:11

7 can't answer that question because you're not a 04:55:12

8 witness who's testifying. 04:55:15

9 So you can ask him if he's ever heard 04:55:15

10 anything about that, but you can't ask a question 04:55:18

11 that states it as a fact and just ask him, do you 04:55:23

12 know about that fact? Because you're not a fact 04:55:24

13 witness, so he's not going to answer a question 04:55:26

14 that's phrased like that. 04:55:28

15 MR. CASILLAS: We're actually at the end of 04:55:28

16 the video, and with everybody's okay, we'll go off 04:55:30

17 the record and let him switch it. 04:55:33

18 MR. BRENT: And it is 4:55, so... 04:55:35

19 MR. CASILLAS: We're working it. 04:55:40

20 MR. BRENT: Well, do you have an estimate 04:55:41

21 and then I can -- 04:55:44

22 MR. CASILLAS: As you can tell, we're moving 04:55:45

23 chronologically. We're almost at the shooting. I 04:55:49

24 hope that you would perceive that we're near the end. 04:55:51

25 MR. BRENT: I don't know what that means. 04:55:53

1 MR. CASILLAS: I agree, that word perception 04:55:55
2 is a funny word. 04:55:57
3 MR. BRENT: Well -- 04:55:58
4 THE WITNESS: Interesting word. 04:56:01
5 MR. CASILLAS: Yeah, it is. I'm telling you 04:56:02
6 we're near the end. 04:56:04
7 MR. BRENT: Okay. Then you're telling me 04:56:05
8 to make a decision about when we leave. 04:56:06
9 MR. CASILLAS: Okay. 04:56:09
10 MR. BRENT: So I guess that's what you're 04:56:09
11 trying to say. I'll take that -- 04:56:10
12 MR. CASILLAS: I'm telling you that we're 04:56:12
13 near the end. 04:56:13
14 MR. BRENT: -- invitation. 04:56:14
15 THE VIDEOGRAPHER: This is the end of DVD 04:56:15
16 No. 1. We are going off the record. The time is 04:56:18
17 4:56. 04:56:21
18 (Recess taken.) 04:56:22
19 THE VIDEOGRAPHER: This is the start of DVD 05:02:45
20 No. 3. We are back -- excuse me -- No. 2. We are 05:02:48
21 back on the record. The time is 5:02. 05:02:50
22 BY MR. CASILLAS: 05:02:52
23 Q Mr. Ramirez, at some point do you spot the 05:03:04
24 individual that you later learned was Mr. Rivera? 05:03:09
25 A Yes, sir. 05:03:12

1 Q Okay. And were you still in your patrol car 05:03:13
2 when you first spotted him? 05:03:16
3 A Yes, sir. 05:03:18
4 Q Was he on the sidewalk? 05:03:18
5 A He was on the west sidewalk, yes. 05:03:20
6 Q Okay. Was he walking? 05:03:22
7 A Yes, sir. 05:03:24
8 Q And do you remember making observations as 05:03:24
9 to how he was dressed? 05:03:28
10 A When I first observed him, he was behind in 05:03:31
11 the -- he was on the sidewalk walking, but the 05:03:37
12 vehicle was covering his body, so I couldn't see 05:03:39
13 exactly what he was wearing, but I could see that he 05:03:43
14 had a black shirt or sweater and he had a black hat. 05:03:46
15 Q And was it a cap, do you recall? 05:03:51
16 A A baseball cap. 05:03:54
17 Q Do you remember if it had any insignia on 05:03:55
18 it? 05:03:59
19 A No, sir, I could only see the side, so as 05:03:59
20 far as the side is concerned, I couldn't see. 05:04:03
21 Q And he was walking southbound? 05:04:05
22 A Yes. 05:04:20
23 Q Facing southbound? 05:04:21
24 A Yes. 05:04:23
25 Q And when you first saw him, was he -- when 05:04:23

1 you first saw him, had your vehicle come to a stop 05:04:32

2 yet? 05:04:35

3 A No, sir. 05:04:36

4 Q And were you still travelling, then, at that 05:04:36

5 five to ten mile an hour speed? 05:04:41

6 A I was more than likely slowing down. 05:04:44

7 Q Because you had seen him? 05:04:46

8 A Yes, sir. 05:04:48

9 Q And you were slowing down to make contact 05:04:48

10 with him? 05:04:55

11 A Yes, sir. 05:04:56

12 Q Did you consider that circumstance a felony 05:04:57

13 stop? 05:05:02

14 A As far as a pedestrian is concerned, there 05:05:03

15 is no felony stop, as far as a pedestrian per our 05:05:06

16 LAPD manual. 05:05:10

17 Q What do you mean by that? 05:05:11

18 A A felony stop is only for a vehicle. Due to 05:05:12

19 the tactics from the felony stop of a vehicle, we can 05:05:15

20 use that for other things. 05:05:19

21 Q Okay. 05:05:20

22 A And in this regard we can use it. I could 05:05:21

23 take tactics -- 05:05:23

24 MR. BRENT: Hang on. He wasn't done with 05:05:29

25 his answer. 05:05:31

1 THE WITNESS: I was allowing you. 05:05:31

2 BY MR. CASILLAS: 05:05:32

3 Q Thank you. 05:05:32

4 A So as a result, we can take tactics that we 05:05:33

5 use from the felony stop of a vehicle and apply 05:05:36

6 certain aspects to a pedestrian stop, but per our 05:05:39

7 manual, there is no felony stop of a pedestrian. 05:05:44

8 MR. BRENT: So I need just to make 05:05:47

9 something for the record for someone viewing the 05:05:49

10 video. So Officer Ramirez began his answer. Your 05:05:50

11 client Mr. Malik walked in and was whispering 05:05:53

12 something to you, so Officer Ramirez paused his 05:05:57

13 response out of courtesy to allow you to converse 05:06:00

14 with your client and then he resumed his answer. 05:06:02

15 MR. CASILLAS: So stipulated. 05:06:06

16 BY MR. CASILLAS: 05:06:08

17 Q Mr. Ramirez, do you remember how far north 05:06:10

18 your patrol car was of Mr. Rivera when you first 05:06:20

19 noticed him? 05:06:27

20 A Sir, our vehicle was not -- I'm sorry. 05:06:29

21 Strike that. 05:06:32

22 Our vehicle was -- in relation to the front 05:06:33

23 bumper or from where we were seated in the vehicle? 05:06:40

24 Q Let's use the plane of the front bumper, the 05:06:44

25 front of the car. 05:06:48

1 A From where it appeared to be, it seemed like 05:06:49
2 it he was five to ten feet in front of that, but on 05:06:51
3 the sidewalk on the west side. 05:06:55

4 Q All right. And do you remember there being 05:06:56
5 a red pickup truck to your right? 05:06:58

6 A Yes, sir. 05:07:01

7 Q Okay. And was he at or near that red pickup 05:07:02
8 truck when you first saw him? 05:07:06

9 A I'm not sure, sir. 05:07:17

10 Q When you first -- do you remember driving up 05:07:18
11 to him and being parallel with him, in other words, 05:07:23
12 that he was directly west of you? 05:07:26

13 MR. BRENT: I'm just going to object to the 05:07:27
14 form of the question, driving up to him. I don't 05:07:29
15 know that he testified to that. 05:07:32

16 BY MR. CASILLAS: 05:07:33

17 Q As you approached him traveling southbound 05:07:33
18 on Wilmington, that at some point you drive -- did 05:07:37
19 you reach a position where he was directly west of 05:07:43
20 you? 05:07:46

21 A He was almost parallel -- 05:07:48

22 Q Yeah. 05:07:50

23 A -- but he was about maybe five feet south of 05:07:50
24 my bumper. 05:07:57

25 Q Did you ever -- 05:07:57

1 MR. CASILLAS: Do you mind if we take a 05:08:09
2 quick break? It's personal call. 05:08:10
3 MR. BRENT: No, I don't mind. 05:08:13
4 MR. CASILLAS: We'll go off the record. 05:08:14
5 Thank you. I appreciate it. 05:08:19
6 THE VIDEOGRAPHER: Off the record, 5:08. 05:08:19
7 (Recess taken.) 05:08:21
8 THE VIDEOGRAPHER: Back on the record, 5:09. 05:09:20
9 BY MR. CASILLAS: 05:09:22
10 Q I understand I'm taking a quick tangent 05:09:59
11 here. The statement you gave to FID was recorded. 05:10:01
12 Do you remember it being recorded? 05:10:07
13 A For audio, yes. 05:10:09
14 Q Do you ever -- did you ever listen to the 05:10:11
15 audio before you came here to your deposition? 05:10:13
16 A No, sir. 05:10:15
17 Q Have you ever listened to the audio? 05:10:15
18 A No, sir. 05:10:17
19 Q Okay. Returning to the night of the 05:10:17
20 shooting, do you remember Mr. Rivera ever being 05:10:23
21 directly parallel to you as you were driving south on 05:10:39
22 Wilmington? 05:10:49
23 A In my FID statement after reviewing it -- 05:10:52
24 Q Yes. 05:10:55
25 A -- I did say -- 05:10:56

1 MR. BRENT: Hang on. You can't talk about 05:10:56
2 FID unless we're under seal. 05:10:58
3 BY MR. CASILLAS: 05:11:01
4 Q As you sit here today, do you remember 05:11:01
5 reviewing -- do you remember Mr. Rivera being 05:11:02
6 directly to the right of you, in other words, 05:11:10
7 directly west of you? 05:11:15
8 A I would have to answer that due to my FID 05:11:17
9 statement. 05:11:23
10 MR. CASILLAS: Okay. We'll go off -- we'll 05:11:23
11 go on to a confidential section of the record here. 05:11:26
12 MR. BRENT: Okay 05:11:30
13 BY MR. CASILLAS: 05:11:31
14 Q Do you remember Mr. Rivera ever being 05:11:33
15 directly to your right, in other words, you actually 05:11:36
16 driving south such that he is directly west of you? 05:11:40
17 A When I reviewed my FID statement, I said 05:11:45
18 he's parallel. And usually when I refer to parallel, 05:11:49
19 that means he's left or right, but in conjunction 05:11:52
20 with our location. 05:11:56
21 Q Right. 05:11:57
22 A So more than likely. 05:12:01
23 MR. CASILLAS: Okay. All right. Well, the 05:12:02
24 confidential section... 05:12:08
25 MS. REPORTER: Wait. In or out? 05:12:15

1 MR. CASILLAS: Out. 05:12:15

2 MR. BRENT: Yes. 05:12:16

3 (Whereupon counsel agree to go off the
4 confidential portion of the transcript.)

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1 BY MR. CASILLAS:

2 Q Can you describe what's depicted in that 05:17:26
3 photograph? 05:17:28

4 A It looks like a LAPD black and white Crown 05:17:29
5 Victoria, Ford Crown Victoria. Since I know the 05:17:35
6 area, it's facing, it looks like, southwest, 05:17:39
7 semi-southwest, more facing south between No. 1 and 2 05:17:46
8 lane going southbound on Wilmington Boulevard. 05:17:51

9 Q And do you remember the vehicle being -- 05:17:54
10 your vehicle being pointed similarly as depicted in 05:17:57
11 this photograph when you got out of the vehicle? 05:18:00

12 A From that night -- 05:18:03

13 Q Yes. 05:18:06

14 A -- I perceive that the vehicle was more 05:18:06
15 oriented towards his direction. It was more -- 05:18:10

16 Q Towards the west? 05:18:13

17 A -- west. 05:18:14

18 Q And so to the extent that that photograph 05:18:16
19 attempts to depict where your vehicle stopped, it's 05:18:20
20 not accurate, correct? 05:18:23

21 A From what I perceived from that night, it 05:18:25
22 would be maybe a little more facing west. 05:18:30

23 Q Pointed directly at Mr. Rivera, correct? 05:18:33

24 A Yes, sir. From what I perceived that night, 05:18:39
25 yes. 05:18:41

1 Q And so you remember seeing Mr. Rivera 05:18:41
2 through your windshield before you got out of the 05:18:47
3 vehicle? 05:18:52
4 A Yes, sir. 05:18:52
5 Q Okay. And, again, looking at the photograph 05:18:53
6 there No. 17, is that the position at least that 05:18:55
7 Mr. Rivera was approximately standing? 05:18:59
8 A It appears to be, yes, sir. 05:19:04
9 Q And, again, the vehicle was pointed directly 05:19:05
10 at him such that you could see Mr. Rivera head on 05:19:08
11 through your windshield, correct? 05:19:13
12 A Yes, sir. 05:19:15
13 Q And when you looked at him through your 05:19:16
14 windshield, did you see the front part of his body? 05:19:19
15 A In an overall or when I first observed him, 05:19:23
16 second and third? 05:19:29
17 Q We'll do chronologically in a second. 05:19:31
18 But as you were getting out your vehicle, 05:19:34
19 it's pointing directly at him and he is facing the 05:19:38
20 front part of the vehicle, correct? 05:19:39
21 A As I'm exiting the vehicle he -- from that 05:19:41
22 night, he was walking southbound, stopped, looked 05:19:48
23 over his right shoulder, continued making a clockwise 05:19:54
24 rotation like a pivot. He raised a black 05:19:59
25 semi-automatic handgun from the muzzle down position 05:20:05

1 from the muzzle pointed towards the ground, and as he 05:20:07
2 was pivoting, turning, he was raising that black 05:20:12
3 semi-automatic handgun towards the hood of our 05:20:15
4 vehicle. At which point, I was going to shoot 05:20:19
5 through the windshield because he's an eminent threat 05:20:27
6 at that point, but as I'm coming up on target to 05:20:31
7 shoot through the windshield, he simultaneously 05:20:34
8 lowers the firearm and is no longer an eminent 05:20:37
9 threat, at which point I stepped out of the vehicle, 05:20:40
10 but at that point, he was still in a pivoting motion. 05:20:44
11 Q In a clockwise direction, yes? 05:20:49
12 A Yes. 05:20:52
13 Q And that means to his right, correct? 05:20:53
14 A Yes, sir. 05:20:55
15 Q Do you mind if I take a quick look at the 05:20:56
16 Exhibit 17? In that photograph do you see the 05:21:09
17 building that's immediately west of where Mr. Rivera 05:21:16
18 was standing? 05:21:19
19 A Yes, sir. 05:21:20
20 Q Do you see that there's a light above the 05:21:21
21 location where Mr. Rivera is standing? 05:21:26
22 A Yes, sir, there is a light. 05:21:29
23 Q Okay. Do you remember that light being on 05:21:31
24 at the time of the encounter with Mr. Rivera? 05:21:33
25 A No, sir. 05:21:35

1 Q Do you not remember it being illuminated or 05:21:36
2 is it that you remember it being off? 05:21:41
3 A I remember it to be off. 05:21:42
4 Q Okay. And have you looked at any of the 05:21:44
5 photographs from that night? I'm sorry. That's a 05:21:46
6 horrible question. 05:21:53
7 Have you ever seen any of the photographs 05:21:54
8 that were taken at the location of the shooting that 05:21:55
9 depict the building that was to the west of 05:22:00
10 Mr. Rivera? 05:22:04
11 A Unfortunately, sir, I don't remember. I 05:22:05
12 remember it more from my body worn video. 05:22:09
13 Q Okay. And also looking at Exhibit No. 17, 05:22:12
14 do you see that there is a streetlight north of where 05:22:16
15 Mr. Rivera is standing? 05:22:19
16 A Yes, sir. 05:22:22
17 Q Okay. And do you remember that streetlight 05:22:23
18 being there present at the time of the incident? 05:22:26
19 A The streetlight was there, but it has been 05:22:29
20 altered. It's -- the light has been changed. 05:22:33
21 Q At the time of the incident, was the 05:22:36
22 streetlight working as far as you could tell? 05:22:39
23 A Yes, sir. 05:22:42
24 Q Was it on? 05:22:42
25 A Yes, sir. 05:22:44

1 Q There's -- in Exhibit No. 17 there in front 05:22:44
2 of you, there appears to be a light fixture, a light 05:22:53
3 bar, fluorescent light bar in the carport area. 05:22:58
4 Do you see that? 05:23:03
5 A Yes, sir. 05:23:04
6 Q Do you remember seeing that light at the 05:23:05
7 time of the shooting? 05:23:10
8 A Honestly, I'm not sure. 05:23:11
9 Q Now, looking at Exhibit No. 17, it appears 05:23:16
10 that the vehicle straddles lane No. 1 and lane No. 2. 05:23:19
11 Is that a fair description of how the 05:23:25
12 vehicle is stopped? 05:23:28
13 A Yes. In the photo, yes. 05:23:29
14 Q In the photo, yes. 05:23:32
15 And when you -- your vehicle came to a stop, 05:23:35
16 initially before you left the vehicle, do you 05:23:41
17 remember if it was stopped straddling lane No. 1 and 05:23:45
18 lane No. 2? 05:23:52
19 A Yes, sir, it was. 05:23:52
20 Q And when you initially approached 05:23:53
21 Mr. Rivera, were you in lane No. 1 or lane No. 2? 05:23:57
22 A Sir, as far as approached, do you mean our 05:24:01
23 vehicle moving towards him or to what effect, sir? 05:24:05
24 Q You're right. That's a vague question. Let 05:24:10
25 me rephrase it this way. 05:24:12

1 When you turned onto Wilmington going 05:24:15
2 southbound, were you in the No. 1 lane, the lane 05:24:23
3 nearest the middle or the No. 2 lane, the lane 05:24:30
4 nearest the parked vehicles? 05:24:33
5 A The No. 1 lane, sir. 05:24:34
6 Q And until you turned that vehicle to the 05:24:37
7 right to point the vehicle at Mr. Rivera, did you 05:24:39
8 remain in the No. 1 lane, the lane closes to the 05:24:44
9 middle? 05:24:47
10 A For the duration from when I turned on 05:24:47
11 Wilmington from PCH to the time that we made contact 05:24:50
12 with Mr. Rivera, I was in the No. 1 lane the whole 05:24:53
13 time. 05:24:57
14 Q Okay. And was that for a specific purpose? 05:24:57
15 A Yes, sir. 05:24:59
16 Q And what was that purpose? 05:24:59
17 A So I could have more field of view. If I'm 05:25:01
18 closer to the middle, I could more assess what's on 05:25:05
19 my left being more -- a little more towards the 05:25:08
20 middle than to the far right. Being the far right, I 05:25:11
21 would have to turn my head a little harder just to 05:25:15
22 look off to my left. 05:25:21
23 Q I gave you a wider field of view -- strike 05:25:23
24 that. 05:25:33
25 Were you present today when Mr. Urrutia 05:25:36

1 described Mr. Rivera as having an angry look on his 05:25:40
2 face? 05:25:50
3 A Yes, I was here present for that. 05:25:50
4 Q And do you remember that he also said that 05:25:53
5 his expression was deliberate? 05:25:57
6 MR. BRENT: I think he said determined. 05:25:59
7 MR. CASILLAS: Determined. 05:26:01
8 BY MR. CASILLAS: 05:26:01
9 Q Do you remember him saying that? 05:26:02
10 A Yes, sir. 05:26:04
11 Q Okay. Do you also make a similar 05:26:04
12 conclusion? 05:26:07
13 A From the time that I saw him pivoting, I 05:26:08
14 really couldn't make a determination what his face -- 05:26:14
15 his facial expressions were doing, if he was 05:26:17
16 grimacing or he had eyes closed, I couldn't tell. 05:26:20
17 I was more focused on the firearm that he 05:26:24
18 was bringing up with his left hand. I was more 05:26:29
19 focused on that than his facial expressions. 05:26:31
20 Q I think it was -- it's your account of the 05:26:34
21 incident that Mr. Rivera always had something in his 05:26:40
22 left hand, correct? 05:26:48
23 A Yes, sir. 05:26:49
24 Q Did you ever see him move anything from his 05:26:50
25 left hand to his right hand? 05:26:53

1 However, from that night of the incident, I 05:28:05
2 could hear yelling coming from Mr. Rivera's location 05:28:08
3 from where he was standing. 05:28:12
4 BY MR. CASILLAS: 05:28:14
5 Q And could you make out what he was saying? 05:28:14
6 A I remember that, what I said, due to my FID 05:28:18
7 statement. 05:28:22
8 Q Okay. Without relying on your FID 05:28:22
9 statement, do you remember him -- do you remember 05:28:25
10 making out what it was that Mr. Rivera said? 05:28:28
11 A He did use the F word. 05:28:34
12 Q And other than using the F word, do you 05:28:36
13 remember what context he used it? 05:28:41
14 A No, sir. 05:28:43
15 Q Do you remember what it was that he said? 05:28:43
16 A I remember he used the F word, but I 05:28:48
17 remember the phrase that I perceived that night and 05:28:52
18 due to my FID statement. 05:28:55
19 Q So as you sit here today, you don't have an 05:28:56
20 independent recollection of it, correct? 05:29:00
21 A From that night? 05:29:02
22 Q Yes. 05:29:03
23 A Correct. 05:29:04
24 Q Looking at Exhibit No. 17 there in front of 05:29:05
25 you, was -- when you first encountered -- sorry -- 05:29:29

1 when you first saw Mr. Rivera, was he north or south 05:29:39
2 of the light pole near the black vehicle? 05:29:47
3 A From the photo, it doesn't show a black 05:29:54
4 vehicle. All it shows is our black and white in 05:29:57
5 between the No. 1 and 2 lane, but from that night -- 05:30:00
6 Q Yes. 05:30:03
7 A -- I remember him being just south of the 05:30:03
8 light pole. 05:30:07
9 Q Approximately how many feet, your best 05:30:09
10 estimate? 05:30:12
11 MR. BRENT: Don't guess. If you can give 05:30:12
12 him an estimate, give him one. 05:30:14
13 THE WITNESS: I'll have to estimate five to 05:30:18
14 ten feet. 05:30:20
15 BY MR. CASILLAS: 05:30:20
16 Q Okay. Was he walking fast or slow, if you 05:30:21
17 could attribute any sort of speed to it? 05:30:25
18 A I couldn't, sir. 05:30:27
19 Q And from the time that you saw him until the 05:30:28
20 time he stopped, how much distance did he travel? 05:30:33
21 A I could only give you a best estimate. 05:30:37
22 Q What is that? 05:30:39
23 A It appeared that he covered about 40 feet -- 05:30:40
24 approximately 40 feet. It could be 30 to 40. 05:30:45
25 Q Start to finish, then, from the time you saw 05:30:49

1 him until the time you shot at him, he traveled 05:30:51
2 approximately 40 feet. Yes? 05:30:55
3 A 30 to 40 feet. 05:30:57
4 Q 30 to 40 feet. Did he ever run? 05:30:58
5 A Not that I observed, sir, no. 05:31:02
6 Q Did he ever walk in a way that you would 05:31:05
7 consider hurried or fast? 05:31:07
8 A Unfortunately, I really didn't see too much 05:31:13
9 of his walking motions, no. 05:31:16
10 Q Now, from the time that you saw him 05:31:18
11 initially a few feet south of the light pole until 05:31:25
12 the time he stopped and turned around, did you see -- 05:31:28
13 did you look to see if he had anything in his hands? 05:31:33
14 A From the first -- when I first observed him, 05:31:36
15 I couldn't see his hands. I could only see because 05:31:40
16 the vehicles were blocking my view, also my eyes were 05:31:43
17 obstructed. I couldn't see. 05:31:48
18 Q Again by what? 05:31:49
19 A A vehicle. 05:31:50
20 MR. BRENT: Parked vehicle. 05:31:52
21 THE WITNESS: Parked vehicle that was along 05:31:53
22 the curb line, so I could only see what he was 05:31:55
23 wearing from maybe the shoulder up. 05:31:57
24 BY MR. CASILLAS: 05:31:59
25 Q And at what point was it that you were -- 05:31:59

1	where was he when you could first see his hands?	05:32:03
2	A Where he is depicted in the photo.	05:32:08
3	Q Okay. So it was at the point that he	05:32:11
4	stopped that you could first see his hands?	05:32:14
5	A Yes, sir.	05:32:16
6	Q Where was that vehicle parked?	05:32:17
7	A It was illegally parked.	05:32:21
8	Q I'm sorry.	05:32:23
9	A It was illegally parked --	05:32:23
10	Q Illegally parked.	05:32:26
11	A -- in the driveway.	05:32:28
12	Q Did it block Mr. -- was it parked on the	05:32:30
13	street blocking the driveway, is that what you're	05:32:35
14	saying?	05:32:37
15	A Yes, sir.	05:32:38
16	Q Facing southbound?	05:32:38
17	A Yes, sir.	05:32:39
18	Q Do you remember that that vehicle was a red	05:32:40
19	vehicle?	05:32:42
20	A Yes, sir.	05:32:42
21	Q Pickup truck?	05:32:43
22	A A red truck.	05:32:44
23	Q Did you see Mr. Rivera come to a stop as he	05:32:45
24	was travelling south?	05:32:56
25	A When I observed the pivot, that's when I	05:32:57

1 observed him stopped. 05:32:59

2 Q And before he began his pivot, could you see 05:33:01

3 his hands? 05:33:07

4 A I don't recall seeing his hands at that 05:33:09

5 point. 05:33:11

6 Q Now, obviously you knew that the call was of 05:33:11

7 man with a gun, yes? 05:33:16

8 A Yes, sir. 05:33:18

9 Q And usually in your experience is that 05:33:19

10 people carry guns in their hands? 05:33:22

11 A Yes, sir. 05:33:24

12 Q Okay. Did you look to see if there was 05:33:25

13 anything in his left hand when you first saw him and 05:33:27

14 were able to see him begin his pivot? 05:33:30

15 A When he initially stopped, I did not see his 05:33:33

16 hands. Now, it could have been that he was -- had 05:33:38

17 his hands in front of him. I couldn't tell, but I 05:33:41

18 couldn't see his hands. 05:33:44

19 As he began his pivot and was continuing it, 05:33:46

20 that is the moment where I could see his hands and 05:33:50

21 that he had a semi-automatic handgun in his left 05:33:53

22 hand. 05:33:57

23 Q In his left hand? 05:33:57

24 A That's correct, sir. 05:33:59

25 Q So to make sure that I understand it -- and 05:34:00

1 you never saw him move it to his right hand, correct? 05:34:06

2 A Correct, sir. 05:34:09

3 Q And his left hand as he was facing south 05:34:10

4 would have been on the street side of him, correct? 05:34:14

5 A Correct, sir. 05:34:18

6 Q At no point did you see his left hand before 05:34:19

7 he began to pivot, correct? 05:34:24

8 A Correct, sir. 05:34:27

9 Q And the pivot that you describe is a 05:34:27

10 complete turning motion facing south, turning all the 05:34:30

11 way around to his right or counterclockwise such that 05:34:35

12 he is facing the patrol car, correct? 05:34:40

13 A That would be clockwise, sir. 05:34:41

14 Q Clockwise, yes. All the way around to his 05:34:43

15 right clockwise such that he's eventually facing the 05:34:47

16 patrol car, yes? 05:34:50

17 A I did not see him complete the turn. I saw 05:34:52

18 him -- as he was pivoting, he's raising the handgun 05:34:59

19 towards the direction of our hood coming around, so I 05:35:04

20 never observed the followthrough. 05:35:09

21 Q And can you demonstrate that movement that 05:35:12

22 you're describing verbally? If you could stand up 05:35:16

23 and show us how. What it was that you perceived him 05:35:19

24 doing? 05:35:22

25 A Would you like me to say it verbally first 05:35:22

1 or demonstrate first? 05:35:24

2 Q Demonstrate first. 05:35:26

3 A So let's say I'm Mr. Rivera. 05:35:29

4 Q Yeah. 05:35:33

5 A And. 05:35:34

6 Q And does he eventually face you directly? 05:35:39

7 A Can I sit back down? 05:35:42

8 Q Yes, please. 05:35:44

9 A He does face us. 05:35:45

10 Q Yes. 05:35:50

11 A But I see that as I stepped out of the 05:35:51

12 vehicle. 05:35:53

13 Q And when he's facing you, is he still 05:35:54

14 crouched down as you described? 05:35:57

15 A I never said he was crouched down. As he's 05:36:00

16 turning, that's when he was raising it; that's when I 05:36:05

17 was going to shoot through the windshield. He begins 05:36:09

18 lowering it. He hasn't completed his turn. I step 05:36:12

19 out of the vehicle. I look away from his position to 05:36:15

20 make sure traffic -- traffic conditions. When I look 05:36:17

21 back at Mr. Rivera, he's now facing our -- our 05:36:22

22 vehicle, his feet are positioned facing our vehicle. 05:36:28

23 Q And is he standing perpendicular and 05:36:32

24 straight up? 05:36:35

25 A Like perfect posture, you mean? 05:36:37

1 Q Describe it however you can. 05:36:39

2 A He's standing upright. 05:36:41

3 Q And do you see him bent at the waist at all? 05:36:43

4 A No, sir. 05:36:47

5 Q And that the point when you get, again, a 05:36:48

6 view of him, do you see anything in his right hand? 05:36:53

7 A In his right hand, no, sir. 05:36:58

8 Q And is his right hand at his side? 05:36:59

9 A I don't remember, sir. 05:37:04

10 Q And do you see his left hand? 05:37:05

11 A Yes, sir. 05:37:08

12 Q And at that point how was he holding his 05:37:08

13 left hand, if you would describe it? 05:37:11

14 A His left hand was down to his side, the 05:37:15

15 muzzle pointing down towards the ground; that's when 05:37:18

16 I gave a verbal command. 05:37:21

17 Q And could you demonstrate how he was holding 05:37:24

18 his left hand when you gave the verbal command? 05:37:26

19 A At the start -- do you want me to stand up? 05:37:30

20 Q Yes, please. 05:37:34

21 A At the start of my verbal command, he has it 05:37:35

22 to his side, muzzle pointed down. 05:37:38

23 Q Left hand? 05:37:39

24 A Left hand, sir. 05:37:40

25 Q And what was the command that you issued? 05:37:41

1	A	It was, hey, drop it.	05:37:46
2	Q	Did you repeat it more than once?	05:37:48
3	A	No, sir. Could I sit down?	05:37:51
4	Q	Sit down. Did you -- other than, hey, drop	05:37:53
5		it, did you say anything else before you shot?	05:37:57
6	A	Unfortunately, Mr. Rivera didn't give me the	05:38:01
7		time to.	05:38:04
8	Q	Okay. Did you see Mr. Rivera at any time	05:38:04
9		before you shot after he had made that revolution	05:38:13
10		that you described, that turn, did you ever see him	05:38:17
11		raise his right hand?	05:38:20
12	A	I don't remember that, sir.	05:38:24
13	Q	Do you remember seeing Mr. Rivera, whether	05:38:25
14		it was in his left hand or his right hand fanning his	05:38:32
15		hand in front of him in a side-to-side fashion?	05:38:38
16	A	I saw him moving the object the second time	05:38:45
17		I exited the vehicle.	05:38:51
18	Q	Yes.	05:38:53
19	A	But it was still muzzle down. It wasn't...	05:38:53
20	Q	So to make sure, you never once saw him move	05:38:57
21		his right hand in a fanning motion from his left to	05:39:01
22		his right and then from his right back to his left	05:39:06
23		and maybe again from his left back to his right,	05:39:09
24		correct?	05:39:12
25	A	With his right hand, no, sir, I never saw	05:39:12

1	that.	05:39:15
2	Q Did you see him ever fan his left hand --	05:39:15
3	from his right to his left from his left to his	05:39:18
4	right, as though if he were pointing at you and then	05:39:22
5	Mr. Urrutia and then back to you?	05:39:26
6	A In his left hand he was moving the	05:39:28
7	firearm -- what I perceived as a firearm, but it was	05:39:31
8	muzzle -- it was not pointed towards me or my	05:39:35
9	partner's direction.	05:39:38
10	Q It was only in an up and down fashion as	05:39:39
11	you've described, correct?	05:39:43
12	A At that point, he was moving. It was at the	05:39:43
13	ground and it wasn't a big movement. It was a very	05:39:46
14	small movement.	05:39:50
15	Q And did you -- was there something at this	05:39:51
16	point in the sequence after you issued that command	05:39:57
17	that you saw Mr. Rivera do that caused you to shoot?	05:40:01
18	A Yes.	05:40:06
19	Q What did you see Mr. Rivera do that caused	05:40:07
20	you to shoot?	05:40:10
21	A At the end of my command simultaneously	05:40:10
22	Mr. Rivera began lifting the black semi-automatic	05:40:14
23	handgun in his left hand from the muzzle down	05:40:19
24	position, now coming up towards my partner's	05:40:22
25	direction.	05:40:28

1 Q And can you demonstrate that movement that 05:40:28
2 you just described? 05:40:31

3 A Sure. 05:40:32

4 Q Please. And where was his arm in that 05:40:33
5 movement when you shot -- fired your first round? 05:40:43

6 A His arm was coming up. 05:40:47

7 Q Was the gun pointed at Mr. Rivera when you 05:40:50
8 shot? 05:40:55

9 MR. BRENT: Mr. Rivera? The gun pointed at 05:40:55
10 Mr. Rivera? 05:40:57

11 BY MR. CASILLAS: 05:40:57

12 Q Mr. Urrutia when you shot. 05:40:57

13 A No, sir, it was -- it was in his direction 05:40:59
14 but it wasn't a muzzle up pointed right at him. 05:41:06

15 Q Could you demonstrate that point and that 05:41:11
16 movement when you fired your first round, please. 05:41:16

17 A Sure. Around here. 05:41:18

18 Q And earlier you told us you fired at the 05:41:23
19 center of mass in that rapid succession that you 05:41:33
20 described. 05:41:40

21 Did Mr. Rivera react to the gunshots that 05:41:40
22 you fired? 05:41:54

23 MR. BRENT: I'm going to object as calling 05:41:56
24 for speculation. 05:41:57

25 BY MR. CASILLAS: 05:41:59

1 Q Did you see him move? Did you see him 05:41:59
2 flinch? Did you see him move as though he had been 05:42:02
3 hit by bullets? 05:42:05
4 A As far as being struck by gun fire? 05:42:06
5 Q Yeah. 05:42:10
6 A I couldn't tell you 100 percent right now 05:42:10
7 that it was a result of that. 05:42:12
8 Q Okay. 05:42:14
9 A All I could tell you from that night, I saw 05:42:14
10 him grab with his hand right and grabbed his right 05:42:16
11 side. 05:42:21
12 Q And how did he do that? 05:42:22
13 A With his right hand he grabbed his right 05:42:24
14 side, like his right torso. 05:42:27
15 Q Could you stand up and demonstrate what you 05:42:29
16 saw him do? And he was wearing shorts. Please sit 05:42:31
17 down. 05:42:37
18 MR. BRENT: Okay. That misstates 05:42:38
19 testimony. He never said he was wearing shorts. 05:42:39
20 BY MR. CASILLAS: 05:42:41
21 Q I'm asking, was he wearing shorts? 05:42:41
22 A No. 05:42:43
23 Q Was he wearing pants? 05:42:43
24 A He was wearing long trousers. I couldn't 05:42:45
25 tell you 100 percent if they were pants or kakis or 05:42:48

1 anything. 05:42:51

2 Q What color were they? 05:42:51

3 A They were dark in color. 05:42:53

4 Q Was he wearing shoes? 05:42:55

5 MR. BRENT: Go ahead. 05:42:57

6 BY MR. CASILLAS: 05:42:57

7 Q Shoes? 05:42:58

8 A I never looked at his shoes. 05:42:58

9 Q Now that he faced you, could you tell or 05:43:00

10 could you make out whether he was a wearing, a 05:43:02

11 jacket, a T-shirt? 05:43:05

12 A I don't remember, sir. 05:43:07

13 MR. BRENT: Just so you know, Counsel, to 05:43:12

14 be fair to you, 17 minutes. 05:43:14

15 MR. CASILLAS: We're working it. 05:43:18

16 MR. BRENT: We're out of here at 05:43:19

17 6:00 o'clock, just so you know. 05:43:20

18 BY MR. CASILLAS: 05:43:20

19 Q Anyway, did you see him fall? 05:43:25

20 A Yes, sir. 05:43:34

21 Q At some point after he fell, did you see 05:43:37

22 that your vehicle was moving forward? 05:43:40

23 A After he fell, after the gun fire had 05:43:43

24 stopped, my tunnel vision broke and I did notice that 05:43:48

25 the car was moving forward towards Mr. Rivera's 05:43:53

1 direction. 05:43:57

2 Q At the time you were firing, were you moving 05:43:57

3 forward? 05:44:03

4 A No, sir. 05:44:04

5 Q Okay. Did you ever see Mr. Rivera from the 05:44:05

6 time that he turned around take any steps towards 05:44:10

7 you? 05:44:12

8 A No, sir. 05:44:13

9 Q Did you ever see Mr. Rivera take any steps 05:44:16

10 backwards? 05:44:26

11 A No, sir. 05:44:27

12 Q To make sure I understand he's moving in the 05:44:28

13 sequence that you've described, he stops, he looks 05:44:33

14 over his right shoulder, he turns clockwise towards 05:44:37

15 you, and engages in the movements with his left arm 05:44:40

16 as you've described, correct? 05:44:44

17 A Yes, sir. 05:44:45

18 Q And he never moves forward at all, correct, 05:44:46

19 before you shoot? 05:44:53

20 A Unfortunately, due to me stepping out of the 05:44:54

21 vehicle and look away from Mr. Rivera, I couldn't 05:44:59

22 tell you 100 percent if he moved forward, if he moved 05:45:02

23 back left or right. 05:45:05

24 Q You told me that after you looked over your 05:45:05

25 left shoulder, cleared it, you never took your eye 05:45:09

1 off of Mr. Rivera from that point until the time you 05:45:12
2 shot, correct? 05:45:17
3 A Correct, sir. 05:45:18
4 Q During that time did you ever see him move 05:45:18
5 forward? 05:45:21
6 A No, sir. 05:45:22
7 Q Did you see the vehicle hit him? 05:45:25
8 A No, sir. 05:45:33
9 Q Did you feel the vehicle hit him? 05:45:35
10 A Yes, sir. 05:45:37
11 MR. BRENT: I'm going to object as calling 05:45:41
12 for speculation. I don't know how you would feel the 05:45:42
13 vehicle hit him. 05:45:45
14 BY MR. CASILLAS: 05:45:46
15 Q Were you inside the vehicle when it ran him 05:45:46
16 over? 05:45:49
17 A A portion of my body was inside the vehicle. 05:45:49
18 Q And did you have the sensation that it had 05:45:52
19 hit something? 05:45:55
20 A Yes. 05:45:56
21 Q And did you conclude that it was his body? 05:45:57
22 A Prior to the shooting I didn't observe 05:46:00
23 anything directly around Mr. Rivera, so it's assumed 05:46:04
24 that the vehicle -- what I felt as the impact was 05:46:09
25 Mr. Rivera. 05:46:12

1	Q	And that was your assumption, yes?	05:46:13
2	A	Yes.	05:46:15
3	Q	Based on your perception and your	05:46:15
4		sensations, correct?	05:46:18
5	A	Yes.	05:46:18
6	Q	Did you hear him scream when the vehicle hit	05:46:20
7		him?	05:46:26
8	A	No, sir.	05:46:27
9	Q	Did you hear him say anything at all after	05:46:28
10		you fired your -- was it seven rounds?	05:46:32
11	A	Yes, sir.	05:46:38
12	Q	When those seven rounds stopped firing, did	05:46:38
13		you ever hear him say anything?	05:46:42
14	A	No, sir.	05:46:43
15	Q	Okay. Did you ever see Mr. Rivera again	05:46:43
16		after he falls to the ground?	05:46:51
17	A	Eventually.	05:46:56
18	Q	Now, can you describe how he fell to the	05:46:57
19		ground?	05:47:03
20	A	He grabbed his side. It seemed like he was	05:47:09
21		starting to bend at the waist and he fell -- I don't	05:47:15
22		want to say right -- to his right. I don't want to	05:47:25
23		say straight ahead because it was more of an angle	05:47:28
24		to --	05:47:31
25	Q	Forward right?	05:47:31

1	A	-- forward right.	05:47:32
2	Q	And that would have been southeast. Yes?	05:47:33
3	A	It would have been northeast.	05:47:39
4	Q	Okay. And did you see his head hit the	05:47:43
5		ground?	05:47:46
6	A	Yes.	05:47:47
7	Q	And when he went to the ground, were his	05:47:49
8		arms at his side, facing forward, behind him? Do you	05:47:53
9		remember that?	05:47:56
10	A	His arms were to his side.	05:47:58
11	Q	And did you keep an eye on what you've	05:48:00
12		testified to was a firearm?	05:48:03
13	A	I'm sorry, sir. Could you repeat it?	05:48:07
14	Q	Yeah. You saw him fall to the ground. His	05:48:08
15		arms were forward. Did you keep an eye on what you	05:48:11
16		testified to was a firearm?	05:48:15
17	A	I did no longer see it.	05:48:16
18	Q	Do you know where it went?	05:48:17
19	A	No, sir.	05:48:18
20	Q	Did you ever see a toy gun underneath the	05:48:19
21		car?	05:48:22
22	A	No, sir.	05:48:22
23	Q	Did you ever see a firearm underneath the	05:48:23
24		car?	05:48:25
25	A	No, sir.	05:48:25

1 Q I understand that after the car came to a 05:48:26
2 stop, that you proposed to back it up, correct? 05:48:28
3 A Correct, sir. 05:48:34
4 Q Mr. Urrutia prevented you from doing that, 05:48:35
5 correct? 05:48:38
6 A Correct, sir. 05:48:38
7 Q And, again, in terms of the hierarchy that 05:48:39
8 you talked earlier, you listened to Mr. Urrutia, 05:48:42
9 right? 05:48:46
10 A Not due to the hierarchy. It was more 05:48:46
11 experience that I later thought that it was a correct 05:48:50
12 decision. 05:48:54
13 Q You deferred to Mr. Urrutia, though, at that 05:48:55
14 moment, correct? 05:48:57
15 A Yes. 05:48:57
16 Q Why did you want to take the car off of him? 05:48:59
17 A I wanted to take the car off him to render 05:49:03
18 aid to him. 05:49:06
19 Q First aid of some sort? 05:49:10
20 A Some sort of first aid. 05:49:11
21 Q Eventually you put the vehicle in park, 05:49:13
22 correct? 05:49:20
23 A Correct, sir. 05:49:20
24 Q And did you turn it off? 05:49:21
25 A No, sir. 05:49:24

1 Q Once you put it in park, did you exit the 05:49:26
2 vehicle? 05:49:31

3 A Yes, sir. 05:49:31

4 Q And when you exited the vehicle, did you 05:49:32
5 look to see where Mr. Rivera was? 05:49:34

6 A Yes, sir. 05:49:38

7 Q Could you see the front left tire of the 05:49:39
8 vehicle? 05:49:43

9 A Yes, sir. 05:49:43

10 Q And could you see Mr. -- a portion of 05:49:44
11 Mr. Rivera's upper torso and his head at or near the 05:49:47
12 front of the front left wheel? 05:49:52

13 A Yes, sir. 05:49:54

14 Q Did you see him breathing? 05:49:55

15 A Unfortunately due to backing out and 05:50:02
16 redeploying, I didn't have an accurate time to 05:50:06
17 observe any chest rise or any blinking or mouth 05:50:10
18 moving as a result. 05:50:14

19 Q You just bailed out backwards, correct? 05:50:15

20 A I redeployed back, yes. 05:50:18

21 Q As you were redeploying, did you attempt to 05:50:20
22 make any observations of where that firearm was that 05:50:35
23 you testified to? 05:50:42

24 A I did not see it. 05:50:44

25 Q Did you ever look for it afterwards at any 05:50:46

1	time?	05:50:49
2	A No, sir.	05:50:49
3	Q Why not?	05:50:51
4	A I couldn't see it.	05:50:53
5	Q Did you ever look underneath the car? I'm	05:50:55
6	sorry. Did you ever at any time after you shot	05:50:59
7	Mr. Rivera and deployed back to whatever position it	05:51:01
8	was that you deployed to, did you ever look	05:51:05
9	underneath the vehicle, your patrol car?	05:51:09
10	A After I redeployed the second time, I could	05:51:12
11	see Mr. Rivera, that his head is in front of the	05:51:17
12	driver's side front tire. I was not looking for a	05:51:26
13	firearm. I was looking if he was making any	05:51:30
14	movements as a result.	05:51:33
15	Q You couldn't tell whether he was alive or	05:51:34
16	dead, correct?	05:51:36
17	A Correct.	05:51:36
18	Q And what did you do to determine if he were	05:51:37
19	alive or dead?	05:51:40
20	A I didn't do anything. That was more -- as	05:51:42
21	we made our approach, we got a tactical plan. I	05:51:47
22	really wasn't involved with that because I was by	05:51:51
23	myself off south of the location.	05:51:54
24	Q At some supervisor's SUV, right?	05:51:57
25	A Yes.	05:52:00

1 So along with us was LAFD and LAFD 05:52:03
2 pronounced Mr. Rivera. 05:52:09
3 Q And did you -- looking in a northwesterly 05:52:11
4 direction from where you deployed behind the 05:52:18
5 supervisor's SUV, could you see your patrol car? 05:52:21
6 A Looking in a northwesterly direction, yes, I 05:52:24
7 could. 05:52:30
8 Q And the driver's side of the patrol car was 05:52:30
9 facing you? 05:52:36
10 A Was facing me? 05:52:39
11 Q Yes. 05:52:40
12 A No. 05:52:41
13 Q As you looked at it. 05:52:41
14 A No. 05:52:43
15 Q The driver's side? 05:52:43
16 A Oh, I'm sorry. Yes. 05:52:44
17 Q And could you see underneath the portion of 05:52:46
18 the vehicle? 05:52:47
19 A Some portion. 05:52:50
20 Q Did you see that somewhere underneath the 05:52:51
21 vehicle in front of the rear left tire there was an 05:52:54
22 object on the ground? 05:53:01
23 A No, sir, I didn't see it. 05:53:02
24 Q Did you see one of his shoes there on the 05:53:03
25 ground? 05:53:08

1 me forever. 05:54:42

2 Q Did Mr. Urrutia show such sentiments with 05:54:43

3 you? 05:54:48

4 A Yes. 05:54:48

5 MR. BRENT: Six minutes, Counsel. 05:54:58

6 MR. CASILLAS: What I propose, Counsel, is 05:55:00

7 that we agree to the same stipulation, 05:55:04

8 MR. BRENT: On the transcripts? 05:55:06

9 MR. CASILLAS: Yes. 05:55:08

10 MR. BRENT: Yeah, that's fine. 05:55:09

11 MR. CASILLAS: Before we go off, I'll ask 05:55:10

12 the court reporter how much time have we been on with 05:55:13

13 Mr. Ramirez, Ms. Reporter, your best estimate. 05:55:16

14 THE VIDEOGRAPHER: I'll have to figure it 05:55:20

15 out. About one hour 54 minutes and 52 minutes. 05:55:24

16 MR. CASILLAS: So two hours and change? 05:55:31

17 THE VIDEOGRAPHER: Yeah. 05:55:33

18 MR. CASILLAS: The Code allows me certainly 05:55:34

19 more time than that, and not that I need more time, 05:55:37

20 but I will suspend the deposition and not formally 05:55:40

21 end this deposition. 05:55:44

22 I expect to do a motion to compel to allow 05:55:46

23 me to ask the questions -- to get answers for the 05:55:49

24 questions that you instructed him not to answer. 05:55:52

25 So with that proviso, I propose that we have 05:55:55

1 the court reporter attach the same stipulation. 05:55:59

2 MR. BRENT: And I won't agree to that 05:56:00

3 proviso, so I'm not agreeing to suspend anything. 05:56:03

4 We -- what the Code allows is completely 05:56:07

5 irrelevant. We had an agreement as to how long we 05:56:10

6 would take. I'm not trying to be pejorative at all. 05:56:14

7 I'm just saying it because we're creating a record. 05:56:16

8 I think you wasted a lot of time with Officer Urrutia 05:56:19

9 maybe because you thought Officer Ramirez was a 05:56:22

10 probationary officer, which he obviously wasn't. 05:56:26

11 When we took breaks, we were always back 05:56:28

12 here. You were long. When we took lunch, we came 05:56:31

13 back on time. You were long. So there's a lot of 05:56:32

14 time respectfully in my mind that was wasted, so we 05:56:36

15 are not agreeing to suspend the deposition. The 05:56:38

16 deposition is over. If you're making some kind of a 05:56:40

17 motion, I'm not addressing that now. That has -- 05:56:43

18 MR. CASILLAS: Okay. 05:56:46

19 MR. BRENT: -- nothing to do with me one 05:56:46

20 way or the other. 05:56:48

21 MR. CASILLAS: Okay. Same stip? 05:56:49

22 MR. BRENT: Same stip? 05:56:50

23 MS. REPORTER: Would you like a copy, 05:56:50

24 Mr. Brent? 05:56:50

25 MR. BRENT: Yes, synced as well, please. 05:56:52

1	THE VIDEOGRAPHER: This concludes today's	05:56:55	
2	proceedings. The total number of DVDs used was two.	05:56:58	
3	We are going off the record and the time is 5:57.	05:57:01	
4	(Whereupon the same stipulation was	05:57:01	
5	used as in Arturo Urrutia's deposition	05:57:01	
6	taken on December 27, 2018 as follows:	05:57:01	
7	"MR. CASILLAS: Okay. I don't think we		02:31:21
8	have any more questions for you.		02:31:22
9	I propose the following stipulation		02:31:27
10	with respect to the handling of the		02:31:28
11	transcript: that's to relieve the court		02:31:30
12	reporter of her duties under the Code;		02:31:32
13	and that she be so relieved upon her		02:31:34
14	depositing the original transcript		02:31:36
15	addressed to defendants' counsel,		02:31:37
16	Mr. Brente; that he agree to be the		02:31:42
17	custodian of the original transcript,		02:31:46
18	produce it upon reasonable notice for		02:31:47
19	any proceeding related to this case;		02:31:49
20	and that he'll also agree to lodge the		02:31:52
21	original -- the signed original at trial;		02:31:53
22	that we also agree that Mr. Brente will		02:31:56
23	provide the original transcript to the		02:32:02
24	deponent, asking him to read it, to sign		02:32:04
25	it under penalty of perjury, and to make		02:32:07

1 any changes that he feels are necessary; 02:32:08
2 and that Mr. Brente agree to notify me in 02:32:11
3 writing of the doing of all of those 02:32:15
4 things, his reading, his signing under the 02:32:18
5 penalty of perjury; and to the extent that 02:32:21
6 he makes any changes, any changes that he 02:32:23
7 may make; and that we also agree that an 02:32:25
8 original -- if the original is unavailable 02:32:29
9 for any other proceedings for any reason, 02:32:35
10 that a certified copy of the transcript can 02:32:37
11 serve for any purpose that the original 02:32:39
12 signed transcript can serve for. 02:32:42
13 "MR. BRENTE: So stipulated.") 02:32:45
14 (Deposition adjourned at 5:57 p.m.) 02:32:45

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1 STATE OF CALIFORNIA)
) ss:
2 COUNTY OF ORANGE)

3 I, GINA ANNE GEORGE, do hereby certify:

4 That I am a duly qualified Certified Shorthand
5 Reporter, in and for the State of California, holder of
6 certificate number 11260, which is in full force and
7 effect and that I am authorized to administer oaths and
8 affirmations;

9 That the foregoing deposition testimony of the
10 herein named witness was taken before me at the time and
11 place herein set forth;

12 That prior to being examined, the witness named
13 in the foregoing deposition, was duly sworn or affirmed
14 by me, to testify the truth, the whole truth, and
15 nothing but the truth;

16 That the testimony of the witness and all
17 objections made at the time of the examination were
18 recorded stenographically by me, and were thereafter
19 transcribed under my direction and supervision;

20 That the foregoing pages contain a full, true
21 and accurate record of the portion of the proceedings
22 and testimony which was designated as "Confidential"
23 to the best of my skill and ability;

24 That prior to the completion of the foregoing
25 deposition, review of the transcript was requested.

1 I further certify that I am not a relative or
2 employee or attorney or counsel of any of the parties,
3 nor am I a relative or employee of such attorney or
4 counsel, nor am I financially interested in the outcome
5 of this action.

6
7 IN WITNESS WHEREOF, I have subscribed my name
8 this ____ day of _____, ____.

9
10
11 _____

12 GINA ANNE GEORGE, CSR No. 11260

13

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1 PENALTY OF PERJURY CERTIFICATE

2 I hereby declare I am the witness in the above
3 captioned matter; that I have read the foregoing
4 transcript or that it has been read to me, and I know
5 the contents thereof; that the transcript is true to my
6 knowledge, except as to those matters which are herein
7 stated upon my information or belief, and as to those
8 matters, I believe them to be true; that I find the
9 transcript to be a true and accurate transcription of
10 the portion of my testimony which was designated
11 "Confidential", with the following corrections, if
12 any:

13 PAGE LINE CHANGE

14 _____

15 Reason _____

16 _____

17 Reason _____

18 _____

19 Reason _____

20 _____

21 Reason _____

22 _____

23 Reason _____

24 _____

25 Reason _____

1 PAGE LINE CHANGE

2 _____

3 Reason _____

4 _____

5 Reason _____

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7 Reason _____

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9 Reason _____

10 _____

11 Reason _____

12 _____

13 Reason _____

14 _____

15 Reason _____

16 _____

17 Reason _____

18 I declare under penalty of perjury under the

19 laws of the State of California that the foregoing is

20 true and correct.

21 Executed on the ____ day of _____ 20____,

22 at _____,

(City)

(State)

23

24 _____

25 DANIEL RAMIREZ

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